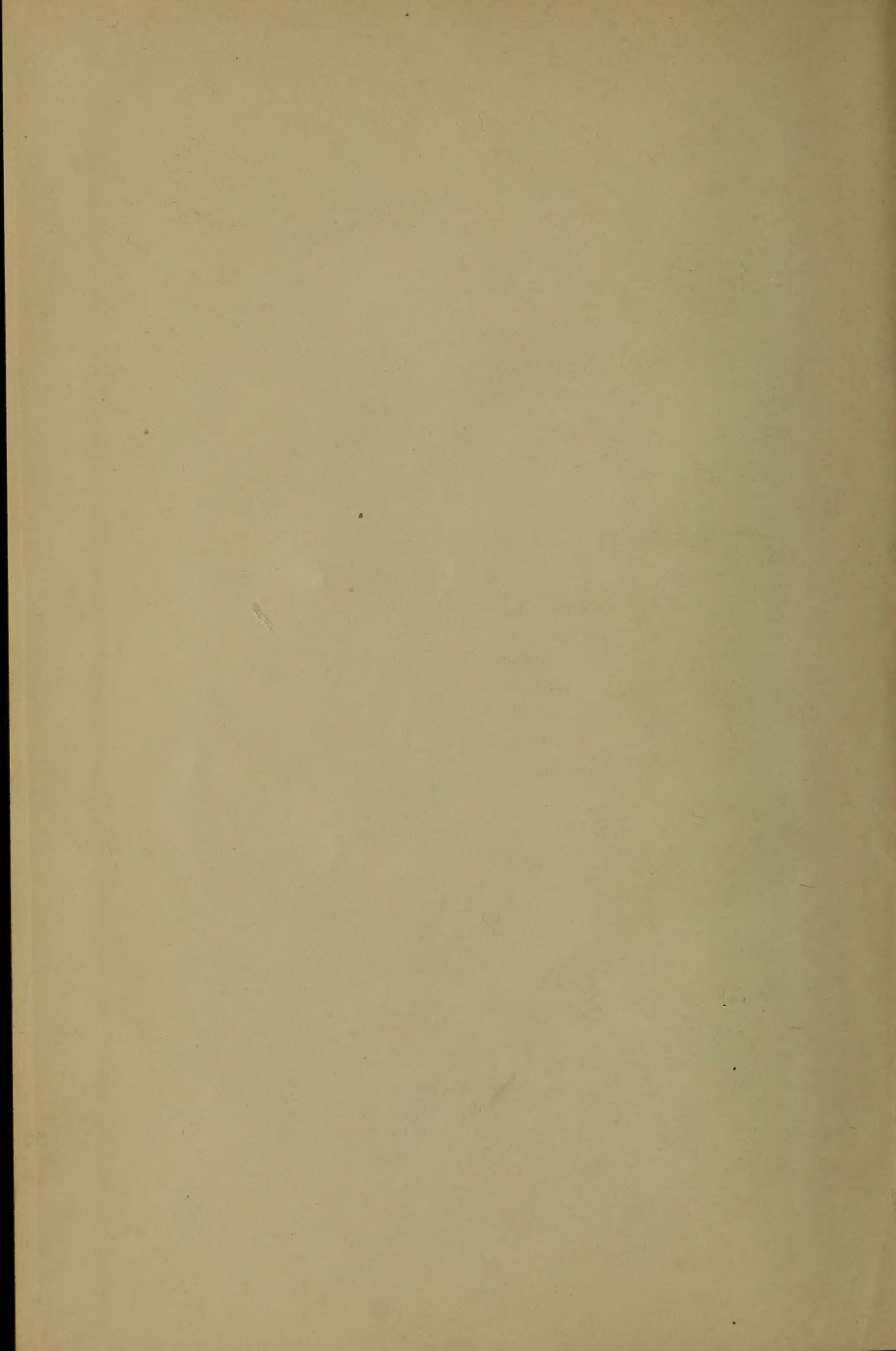


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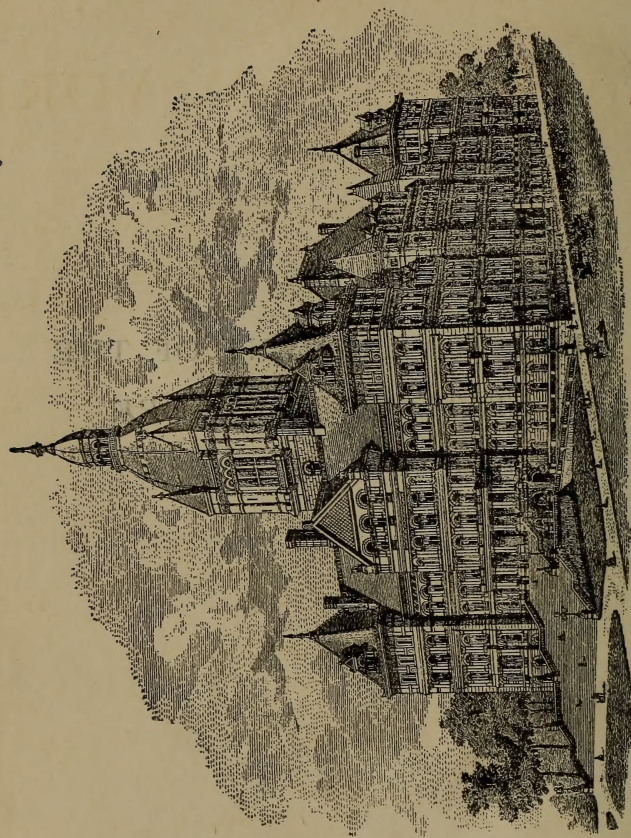
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THE GOVERNMENT OF THE
STATE OF NEW YORK



THE CAPITOL AT ALBANY.

THE GOVERNMENT
OF THE
STATE OF NEW YORK

BY

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PRINCIPAL OF THE BOYS' HIGH SCHOOL, BROOKLYN

WITH MAPS AND ILLUSTRATIONS

NEW YORK
CHARLES SCRIBNER'S SONS

1912

THE GOVERNMENT
OF THE
STATE OF NEW YORK

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BY
JAMES HULLIVAN, P.R.D.

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PREFACE.

IN the study of civics in our schools there is usually such strong emphasis laid on the National government that the student comes to think that the State government is of very little importance. This fact has led and is leading the public at large to regard the State as scarcely anything more than an administrative unit like the English county and the French department. Men of learning and prominence regard with equanimity the gradual encroachment of the National upon the State government. That men in general do not object to the increasing assumption of powers by the National government may be in part attributed to the training which they receive in the schools.

Whether such assumption of power is good or bad is of course debatable. No one will deny, however, that it is contrary to the spirit of our institutions. The reduction of our States to mere divisions for administrative purposes was something never contemplated by the most ardent Federalists. With the hope of counteracting in a measure the present tendency to aggrandize the importance of the National government I have aimed to bring before the student the exceedingly important part which our State government plays in our daily life.

Another object I have kept constantly in mind is to show the government in its actual working. For that reason at the end of each chapter are several paragraphs on actual conditions. These, following, as they do, the sketch of the machinery of government, are intended to show how prac-

tice differs from theory, and wherein we are successful and wherein we fail in carrying on our government.

On the political history of New York State I have given very little, because almost all that I could give here has already been covered in connection with the history of the United States which the pupil has already studied. Changes in institutions, however, have been noted in their proper places. I have also omitted from the text salaries of officials and other statistical matter. Such material is to be found in reference tables at the end of the book.

I am indebted to Mr. A. H. Sanford for permission to use at the ends of some of my chapters certain of the "suggestive questions," in his work on the "Government of Wisconsin."

NEW YORK CITY, November, 1905.

PREFACE TO THE SECOND EDITION.

THE conditions governing affairs in our State and its counties, cities, villages, and towns change so rapidly that every year some legislation is necessary. In theory a new text-book would be necessary every year, but as this is not possible in practice, it behooves every teacher of civics to take a wide-awake interest in current affairs so as to be able to keep himself and his pupils abreast of the times.

It is now seven years since this book was published and the object of this new edition is to make in it such changes as have been made necessary by the lapse of time.

The author at one time seriously considered the proposition of remaking the book along the lines laid down by the new State Syllabus, but he was deterred from doing it after a talk with one of the members of the committee that made the syllabus. It became clear that the intent of the committee was to have the subject studied inductively and that the teacher was to be the all-important factor in getting the pupil to gather the facts.

The general material called for in the syllabus is to be found in this book, though the arrangement is different. To assist the teacher the syllabus has been placed in this volume to precede the text and page references have been given so that the place where a topic is treated may be easily found.

Aside from the numerous necessary changes in figures

throughout the book the most important sections entirely rewritten are those relating to "The Primary," "The Income Tax," "The District Superintendent of Schools," and "The Initiative, Referendum, and Recall."

JAMES SULLIVAN. 6

PLANDOME, LONG ISLAND, June, 1912.

SUGGESTIONS TO TEACHERS.

THERE is a somewhat prevalent notion among teachers that the object of studying our local and State governments is to encourage local pride and patriotism. This, it is supposed, will make the student a better citizen. There is nothing, however, which is more erroneous. Such teaching leads the pupil to have wrong notions of the importance of his own locality, to have his perspective so distorted as to see only the good and none of the bad, and to make no effort to work for a change in the imperfect because he thinks it perfect. There is no worse citizenship than is expressed in the words: "We are all right." This blatant self-satisfaction with what we have is responsible for our "corrupt but contented" style of government.

Our most patriotic citizens are those who see the defects of our institutions, not those who sit with folded hands and think that democratic principles have brought the millennium. Because we teach our pupils to see wherein we have failed and are failing in carrying out these principles, it is not to be urged that we are teaching them to be unpatriotic. Patriotism is a matter of slow growth and takes care of itself without being taught. It is like love of one's mother—it needs no cultivation. The quality which we teach in our schools by the overemphasis which we lay on our perfections is "jingoism." With some this may pass for patriotism, but it is as different from that as day from night, and the less we have of it the better.

Another danger which the teacher of local government

must avoid is the spirit of narrow provincialism which unfortunately is altogether too common in this country. The silly but sometimes bitter rivalry which exists between some cities and States of our Union is at times directly traceable to school instruction. If we cannot get good citizenship except by vilifying or depreciating our neighbors, it is something we had better do without. Good citizenship is not narrow and provincial, but broad. It has the world for its teacher and from her it learns to borrow the good wherever that is to be found. If Germany has better municipal government than we have, it is our duty as good citizens to profit by her example, or at least to teach our children that the Germans manage their municipalities better than we.

It is not necessary, however, to "harp" on the bad qualities of our government all the time. There is a danger, in these days of newspaper exposures of political corruption, of the pupil getting to believe that all men connected with public life are guilty of wrongdoing simply because a few cases are brought to light. This must be guarded against and the pupil made to realize that by far the larger number of men in political life are honest and incorruptible. The points wherein we excel others may be brought out as well as those wherein we fail. Our present tendency, with our pupils at least, is to gloss over the latter and that is why we have to be on our guard.

From these few remarks it will be seen that the teacher of civics must know other governments—local and National—besides his own, must be a close reader of the newspapers and their editorials, and must be ready at all times to discuss present-day problems and politics as illustrating the actual working of the machinery of government as it is studied in the text. Teachers should by every means in their power encourage the pupils to read the best of our newspapers and to make scrap albums of clippings which relate to the sub-

ject under discussion. In conjunction with this should go the visits to legislative assemblies, interviews with local officers, leaders and active citizens, and reports from observation on the methods of conducting the business of some local department. The pupil should be made to see the government in its actual working as much as possible and to realize for himself how much or how little it differs from the theory.

A great deal of space has been given to cities. It is hoped that teachers will find it possible to give much more time to this division of our government than has hitherto been the case.

The suggestive questions at the close of chapters are not meant to be such as can be answered from a reading of the text. They are intended to make the pupil think, consult books outside the text and ask questions of men who are acquainted with the machinery of government. The teacher will be able to frame others of the same sort as the study of the various chapters progresses.

No "outlines" of chapters or of departments of government have been given. It was felt that the making of these was an exercise which should be left to the pupil.

The following short list of books will prove helpful:

BIBLIOGRAPHY.

ANDREWS, GAMBRILL, AND TALL, *A Bibliography of History for the Teacher.*

ON METHOD.

MARTIN, G. H., *Hints on the Teaching of Civics.*

BOURNE, H. E., *The Teaching of History and Civics.*

NEW ENGLAND HIST. TEACHERS' ASSOCIATION, *Report of the Civics Committee.*

REFERENCE LISTS FOR OUTSIDE READING.

HART, A. B., *Actual Government.* (List at heads of chapters.)

MOREY, W. C., *The Government of New York.* (List at heads of chapters.)

STATISTICAL MATERIAL.

MURLIN, E. L., *The New York Red Book*. (Annually.)

SECRETARY OF STATE, *The Legislative Manual*. (Annually.)

ALMANACS OF THE NEW YORK CITY DAILY NEWSPAPERS:
American, Eagle, Tribune, World.

GOVERNMENT OF NEW YORK STATE.

MOREY, W. C., *The Government of New York*.

Revised Statutes of New York State.

GOVERNMENTS OF OTHER STATES.

American State Series, edited by W. W. WILLOUGHBY.

FOREIGN GOVERNMENTS.

WILSON, WOODROW, *The State*.

CITY GOVERNMENT.

SHAW, A., *Municipal Government in Continental Europe*.

SHAW, A., *Municipal Government in Great Britain*.

GOODNOW, F. J., *City Government in the United States*.

NEWSPAPERS FOR YOUNG PEOPLE.

Our Own Times, Brooklyn.

Current Events, Springfield, Mass.

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THE STATE SYLLABUS.¹

Preliminary Steps.

1. Make a list of some twenty or more services rendered to the pupils or their families by some governmental unit and classify these as rendered by (a) the school district, (b) the town, village, or city, (c) the State, (d) the nation, and discuss the relative importance of these various services to the well-being of the pupil. (Page 1.)²
2. Determine why these services are not left to the individual to perform; the advantages of co-operation; the necessity of some surrender of individual control in any organized community. (Page 7.)
3. A brief résumé of the rise of co-operative control by the body of citizens in our own country as seen in building stockades, roads, schools, supporting a church, etc.

The School District. (Pages 131 ff.)

A study of the school district to bring out the following points:

1. How composed.
2. Its boundaries, how determined.
3. Its officers and the duties of each.
4. Its independence of town and village governments.
5. School meetings—annual and special; the business transacted at school meetings.
6. Union free school districts, how they differ from common school districts.

The Town. (Pages 65 ff.)

1. The study of the activities of the town.
 - a. In roadmaking and bridge-building. Importance of roads to the farmer. Good and bad kinds of road. Share of the county and of the State in road-making and maintenance.

¹ See note on page xxvii.

² The page references are to this book.

- b. The care of the poor.
 - c. The keeping of order. (Pages 44 ff.)
 - d. The town meeting. Election of town officers. Voting of funds.
2. The town officials: the double service of the supervisor; other officials and the duties of each.

NOTE.—It will add interest and reality to the study, if the officials themselves will meet the class and explain the nature of their services to the town. At any rate legal blanks should be secured from the different officials and their use made clear.

The Village. (Pages 66 ff.)

1. A study of the particular natural advantages or conditions which have caused the relatively close settling of a number of families in a small area. The new conditions made necessary by such centres of population:
- a. Macadamized or paved roads.
 - b. Sidewalks and curbs.
 - c. Sewers.
 - d. Street lights. Whether under public or private control. Relative advantages. Method in other villages. Cost.
 - e. Water supply. Public or private. Relative advantages. Methods in other villages. Cost.
 - f. Removal of refuse.
 - g. Street cleaning.
 - h. Fire protection. Volunteers or paid department.
 - i. Care of the public health.
 - j. Administration of justice. (Pages 44 ff.)
 - k. Graded and higher schools.
2. Classes of villages; the village charter, class to which the pupils' village belongs. The village officials: the terms of office and duties of each.
3. Election of the village officers. Time, and reason for it.

The City. (Pages 71 ff.)

1. A study of the natural advantages and other conditions which have caused the pupil's place of residence to become a city: (Consult Wilcox, *The American City*, and Willard, *City Government for Young People*.)

2. The street the central element of city life. How the activities and conditions named in 3 to 7 are cared for in the student's home city; what official is responsible for each activity; how he gets his position; how he may be made to perform his function properly; and, throughout, a comparison with the practices of other cities within and without the State.
3. The laying out (including condemnation proceedings) of streets; their paving and maintenance; kinds and cost of surface; right to tear up pavement; duty to replace; sidewalks and curbs; cleaning of sidewalks; traffic regulations.
4. Bridges; to be studied in the main as roads.
5. Other utilities found on, in, or under the streets.
 - a. Sewers and sewage disposal. Comparison of methods.
 - b. Street lights; how supplied.
 - c. Gas mains and connections.
 - d. Electric wires; pole or conduit system.
 - e. Water mains and connections.
 - f. Transportation lines; surface, elevated, or subway.
 - g. Steam railways in streets; grade crossings.
6. Street cleaning; snow removal.
7. In the case of each of the foregoing utilities a discussion (if apposite) of public versus private ownership. In case of the latter a discussion of the obtaining of the franchise. The welfare of the community as dependent upon the proper management of these utilities.
8. The rights and duties of citizens on the streets.
9. Building laws and permits. Peculiar problems of city life arising from the existence of tenement houses, high buildings; how met and regulated.
10. Fire department; effect of its efficiency on insurance rates.
11. Police work; preventive, protective.
12. The school system; appointment of teachers; compulsory school law and its enforcement. (Pages 134 ff.)
13. Parks and recreation centres; baths; washhouses.
14. Museums, lectures, free concerts.

15. Care of the poor; city institutions.
16. Care of the sick and injured.
17. City courts; civil and criminal; juvenile; relation to county and State courts. (Page 45.)
18. City penal institutions.
19. City finances.
 - a. The cost of the services mentioned in 10-18.
 - b. Sources of revenue: licenses, fines, fees, rentals of public property, taxes, special assessments.
 - c. Assessments for taxation purposes. The real estate and personal tax, with reasons for growing neglect of latter. (Pages 108 ff., 116.)
 - d. The tax rate. City rate as compared with State and federal taxes.
 - e. Making the budget. Revenues and expenses for the last financial year.
 - f. City debt; limitations. (Page 82.)
20. Systematic outline of the framework of the city government with a tabulation of the chief officials and their duties, where feasible using the city charter as a guide. Officials removable by State authority. Classification of officials as legislative, executive, or judicial. (Page 144.)
21. Choosing of above officials. City elections; when held, and why at that time. National party lines usually not drawn in city affairs. Duty of the citizen to take part in organized city politics. (Pages 81 ff., 86, 104.)
22. Classes of cities. Classification of the student's city. The charter; how obtained; its functions; changes in the charter, how made. (Pages 71 ff.)
23. Comparison of general systems of city government. The commission plan (Des Moines, Galveston). Need of fixing responsibility.

The County. (Pages 64 ff.)

The county has hitherto been largely ignored in the study of civics. The collection of its taxes at the same time and on the same bill as the local tax leads to this. It

has important distinctive services. Many cases at law go to county courts. Registration of deeds and mortgages, probate and administration of wills are county functions. Also the main highways and bridges are chiefly under county control outside the great cities. The county is responsible for the preservation of order.

1. City counties. Some cities are identical in boundaries with a county; others (New York City) include several counties. In such cases city and county government in part coincide, and certain county officials are replaced by city officials. (Pages 63 *ff.*)
2. County officials: duties of each; how chosen; how removed.
3. County finances.
 - a. The expenses of the county.
 - b. The county tax; how levied; how collected.
4. The judicial system. (Pages 51 *ff.*)
 - a. The grand jury: composition; selection; duties (indictment, presentment); mode of procedure.
 - b. The trial or petty jury: list of jurors, and how made; liability to jury duty, and exemption therefrom; duty of the citizen to serve as a juror; selection of the panel; number; requirement of unanimous verdict; pay of jurors.
 - c. Duty of district attorney.
 - d. Duties and jurisdiction of county judge. (Page 43.)
 - e. Duties of sheriff; in execution of civil judgments and criminal sentences; preservation of order; the *posse comitatus*. (Page 64.)
 - f. The crime of perjury.

The Government of the State.

- I. The Constitution of the State of New York. (Pages 1 *ff.*)
 - A. By whom established; why established; how established; by whom drafted.

B. Importance of the Constitution as the fundamental law seen. (Pages 7 *ff.*).

1. In guaranteeing personal rights.
2. In determining suffrage rights and the manner and the time of voting.
3. In creating legislative bodies, defining their duties and limiting their action.
4. In creating executive and administrative offices and defining the duties thereof.
5. In creating State and local courts.
6. In safeguarding State and local credit and caring for public property and public institutions.
7. In providing free schools and academies.
8. In providing for its own amendment.

II. Activities of the State. (Pages 1 *ff.*)

The State the greater regulator of our everyday life, as shown.

A. In its creation and control of:

1. The school district, the town, city, and county, with their close relation to our daily life as already shown. (Pages 1 *ff.*)
2. The personnel of the voting body, by fixing their qualifications, even those of voters for federal officers. (Pages 10 *ff.*)
3. The number, kind, and qualifications of the elective and appointive officers of the lesser units, including the power of removing many city and county officials by State authority.

B. In its enactment and enforcement of the great majority of the laws which govern the citizen in his daily life, such as:

1. Creation and safeguarding of all civil and property rights; with regulation of transfers and inheritances.
2. Creation and control (save for interstate commerce) of all corporations.

3. Special control of all banks and trust companies save national banks, and of all insurance companies and building and loan associations.
4. Control of all common carriers so far as traffic within the State is concerned.
5. License and control of the liquor business.
6. Sanitary regulation.
7. Exercise the right of eminent domain.
8. Supervision of education.
9. Authorization of the levying of all taxes for State and local purposes.
10. Provision for certain portions of the defective, dependent, and delinquent classes.

III. Organization of Government. (Pages 12 ff.)

These various activities of the State, as of the local unit, require for their exercise the three organs of government: the lawmaking, the law interpreting, and the law enforcing; or the legislative, judicial, and executive departments.

A. The State legislative department.

1. The State Legislature. (Pages 12 ff.)

- a. The source of the lawmaking power, representing "people of the State of New York."
- b. The Legislature divided into two houses; advantages; disadvantages.
- c. Composition of Senate; how elected; compensation.
- d. Composition of Assembly; apportionment; the State census; election; compensation.
- e. The Assembly at work. (Pages 15 ff., 24 ff.)

(1) Organization.

- (a) The Speaker: his election; the party census; powers of the Speaker; in the appointment of committees; in his "recognition" of members; in his chairmanship of the committee on rules.
- (b) The Clerk.
- (c) Minor officers.

- (2) Making a law; distinction between a legislative bill and a law.

(a) Safeguards against hasty and ill considered legislation.

Introduction of a bill—its sponsor.

Printing and publicity.

The three readings on three different days.

Reference to a committee that discusses, may amend, and may give public hearings.

Revision, if necessary, by special revision committee.

Report of bill by its committee to house; possible debate, amendment, and recommitment to original committee or some other committee.

NOTE.—All legislative bills must pass both houses, each of which takes similar precautions before it goes to the Governor, who may seek expert advice and give public hearings before making a bill a law by his signature.

(b) Legislative committees: majority and minority composition; the principal committees; the great advantage of committees.

(c) Majority and minority leaders in the Assembly; advantages of this leadership.

(d) The Speaker and Clerk, their services.

f. The Senate at work.

(1) Organization.

(a) The Lieutenant-Governor as presiding officer; his voting power; influence compared with that of the Speaker of Assembly. (b)

The President *pro tempore*. (c) The Clerk.

(d) Minor officers.

(2) The course of a bill; similar procedure to that of the Assembly.

Bills may originate in either house [see Constitutional limitation of right to originate money bills to lower house in Congress], and from it pass to the other house.

Conference committees where the two houses fail at first to agree on a measure.

[For course of a bill after it leaves the Legislature see powers of Governor.] (Pages 38 *ff.*)

g. Legislative commissions: joint, or of either house, for investigating any matter whatsoever within compass of State legislation.

h. Powers peculiar to each house.

(1) Assembly may present impeachments of high State officials.

(2) The Senate, with the justices of the Court of Appeals, the court for trial of impeachments. The right of confirmation or rejection of appointments by the Governor.

i. Powers common to the two houses:

In joint session to elect United States senators, and regents.

j. General powers of the Legislature. (Pages 16 *ff.*)

Limited only by federal and State constitutions; otherwise, may pass any law it pleases. Scope of State legislation therefore much more varied than that of federal legislation.

B. The State executive. (Pages 32 *ff.*)

1. The Governor.

Overshadowing importance of Governor; due to

a. His share in legislation, as shown by:

(1) Regular and special messages to the Legislature.

(2) Power to call special sessions of Legislature which have the right to deal only with measures indicated in special call.

(3) Power over a bill which has passed the Senate and Assembly: three ways in which a Governor may treat a bill; the power to veto single items of an appropriation bill.

b. His executive powers as shown by:

(1) Appointment of a large number of administrative officials and boards charged with the duty of carrying out the laws of the State—

18 such departments, the more important of which are:

(a) Commissioner of Excise. (b) Civil Service Commission. (c) Commissioner of Labor. (d) Public Service Commissions: one for metropolitan district, one for remainder of State. (e) Superintendent of Banks. (f) Superintendent of Insurance.

(2) Power of removal of certain State officers with consent of the Senate; and of certain county and city officers independently.

(3) Control of the militia.

(4) Power to assign justices to special duties.

(5) Power to fill vacancies in certain judicial, county, and State offices and to appoint a United States senator to a vacant seat pending election.

c. His judicial powers as shown by

Right of reprieve, commutation and pardon.
(Boards of pardon in some other States.)

2. Elective executive officials.

a. Governor.

b. Lieutenant-Governor.

c. Secretary of State.

d. Comptroller.

e. Attorney-General.

f. State Engineer and Surveyor.

Election; term; general duties; removal by impeachment.

Executive power of the State divided, or in commission, because these elective officials may be of different parties. Lesser officials independent of Governor; in no sense a cabinet; advantage or disadvantage of this arrangement.

3. The State Education Department. (Pages 127 ff.)

a. The Education Department embraces in its jurisdiction the entire field of educational supervision and administration. It is governed by a Board

of Regents and a Commissioner of Education. The Commissioner of Education appoints three assistant commissioners each of whom has charge respectively of higher, secondary, and elementary education. Statutory provisions in regard to education and State appropriations for educational purposes are, of course, made by the Legislature, but numerous legislative powers over matters of detail are delegated to the Board of Regents, and full executive and administrative powers are intrusted to the Commissioner of Education both by the Legislature and by the Board of Regents. The Commissioner of Education also acts as chief judicial officer in all questions of law pertaining exclusively to the public school system.

b. The Board of Regents.

(1) How constituted: number; choice; term of office; when established; original purpose.

(2) Duties.

(*a*) Confirmation of appointments. (*b*) Granting of charters. (*c*) Visitation and examination. (*d*) Care of the State Library and the State Museum. (*e*) Care of public libraries and educational extension. (*f*) Supervision of academic and professional degrees.

c. The Commissioner of Education.

(1) How chosen.

(2) Duties.

(*a*) Appointment of subordinates. (*b*) General supervision of schools, school officials, and educational institutions. (*c*) Distribution of State appropriations for education. (*d*) Judicial powers, original and appellate: interpreting school laws; deciding appeals.

C. The State judiciary. (Pages 40 *ff.*)

Has jurisdiction in cases beyond the power of inferior and county courts, and on appeal from such:

1. The Supreme Court; judicial districts; election of justices; their number and term.
2. Appellate divisions of the Supreme Court; number; how justices are assigned to each.
3. The Court of Appeals; judges; their election, number, and term; jurisdiction.
4. The Court of Claims; constitutional reason for it.

IV. Instruments of Government.

A. Finances. (Pages 119 *ff.*)

1. State budget: expenses for
 - a. State administrative departments.
 - b. The Legislature.
 - c. The Judiciary.
 - d. Prisons; reformatories.
 - e. Charity.
 - f. Education.
 - g. The militia.
 - h. Public works.
2. Revenues, from taxes on
 - a. Organization of corporations.
 - b. Current business of corporations.
 - c. Inheritances.
 - d. Transfers of stocks.
 - e. Liquor traffic.
 - f. Property. Latter very slight in New York State; required by Constitution to meet State debt. Favorable position of New York State in matter of property tax; reasons. How apportioned and collected. (Pages 108 *ff.*)
3. The State debt.
Revenues sufficient for ordinary expenses.

B. State control of elections. (Pages 86 *ff.*)

- All elections, even of federal officials, under State law.
1. The franchise; meaning of suffrage; who may vote; disqualifications. (Pages 10 *ff.*)

2. Election districts. (Pages 90 ff.)
 - a. The State one district for federal officials and for major State officials.
 - b. Congressional.
 - c. Judicial.
 - d. Senatorial.
 - e. Assembly.
 - f. County.
 - g. School commissioner.*
 - h. Village.
 - i. School district.
 - j. City.
 - k. Borough.
 - l. Aldermanic.

Pupil's district for each of above elections.

3. Time of election in each of above districts. Reasons for separating local elections as far as possible from State and federal elections.
4. Nominations: party organization in election districts; the leader; the primary; party enrolment at registration; the direct primary; nomination by petition; the ascending scale of committees and conventions; party platforms.
5. Registrations; why more important in cities than in rural districts.
6. Voting: the polling places; preparation of the ballots; form of ballot; reasons for secret ballot; marking the ballot; straight ticket; split ticket; election officers at the polls; challenging a vote; demand for a shorter ballot; the Massachusetts form; voting machines.
7. Counting the vote; disposition of ballots; canvassing the votes; certificates of election.
8. Majority and plurality; practice of this State; of other States.

* The office and district are now abolished and those of District Superintendent and his district substituted. J. S.

9. Election expenses; how far legitimate; sworn statements by candidates; campaign funds; publicity; how raised; for what used.
10. Bribery; viciousness of; laws against.

V. Comparison of State Governments.

Newer State constitutions tend to become much more extensive than those of older States (Oklahoma an extreme case). Reason for this; distrust of State Legislatures. Wide diversity of laws in the 46 States; evils of this; the newly formed and extra-constitutional "House of Governors," an attempt to lessen this evil.

NOTE.—Teachers must be on their guard against regarding a syllabus as so sacred that it must be followed against their better judgment. The most that any syllabus-maker wishes to accomplish is that the syllabus shall serve as a guide for work and give the subject-matter of a course. The order of presentation may vary with the teacher or school provided the topics given are covered. There are many of these in this syllabus such as can not possibly be covered in the confines of a small text. Such, for instance, are those topics on the village and the city, which the authors of the syllabus intended should be drawn from the class by questions put by the teacher, testing the general powers of observation and reason by the pupils.—J. S.

THE GOVERNMENT OF THE STATE OF NEW YORK.

CHAPTER I.

THE CONSTITUTION.

Importance of the State.—We have already spent a great deal of time and space on the study of the National government, but we must always remember that so far as our daily life is concerned the State government is far more important than the National. It is the State which decides on the form of government of our counties, towns, and villages, and grants charters to our cities. It is the State which through these local governments, or directly, makes provision for the public health and the public education of the citizens; establishes asylums, prisons, and houses of correction; manages the public lands, takes care of the forests, fish and game, promotes agriculture, regulates labor and domestic commerce; builds and cares for canals, and grant charters to and controls corporations. Among the most important of the latter, which affect us directly, are gas companies, street and steam railway corporations, and food-product concerns. When we see that the State has so many activities, we realize why it is so very important to understand thoroughly the government of the State.

Constitutions of New York.—The details of the form of government of our State—sometimes called the Empire State because of its great wealth and population—is determined, like the governments of the United States and the other States, by a document known as the Constitution. We have had in our history four different State constitutions. The first was made in 1777, the second in 1821, the third in 1846, and the last in 1894. Why we have had so many when the National government has had only one during the same period of time will become clear if we carefully consider the matter. It is well known how difficult it is to change the Federal Constitution and how it has been “stretched” in order to include powers or functions which were not expressly stated in the document itself. It has not been necessary to do this with our State Constitution, because it has usually been an easy matter to get a wholly new Constitution or to change the one which we had. This is true for the following reasons: (1) Having the people of one State instead of many States to deal with it was an easy matter to find out whether they wanted a constitutional convention called in order to draft a new Constitution. (2) The method of amendment has been simpler. Though the Constitution of 1777 made no provision for amendments, it was possible for the Legislature by a mere majority vote to call a convention for the purpose of changing the Constitution. By the Constitution of 1821 it was made possible to add an amendment to the Constitution if a mere majority of each house of the Legislature voted for it and two-thirds of each house of the subsequent Legislature approved of it. (3) Being in a small area, the people were more likely to be nearly

of one mind as to any change which was thought desirable.

Constitution of 1777.—This Constitution, like the constitutions of the other States adopted at about the same time, was drawn up at the suggestion of the Continental Congress, then in session at Philadelphia (May 10, 1776). It did not attempt to create new institutions, but provided for those to which the people had been used during the previous history of the colony. Provision was thus made for a governor, a lieutenant governor, executive councils, a legislature of two houses, all chosen by the people, and a system of courts the judges of which were to be appointed. Under the colonial government no one had been allowed to vote unless he owned a certain amount of property, and this restriction remained in force in this Constitution. To protect the citizen in the enjoyment of what he considered his fundamental rights certain clauses defining these were put into the Constitution. These came to be called the "Bill of Rights."

This Constitution, like the later Federal Constitution, was short, and barely outlined the form of government. The form of government has remained the same throughout the history of the State, but the document itself has been increased so much in length that it is more like a book of laws than a definition of the various departments of government and their powers.

Under this Constitution the power which had belonged to the King passed to the people. They had a strong feeling at this time against tyranny and "one-man power," and hence they made the authority of the office of governor as weak as possible, and put the control of

the government largely into the hands of the Legislature. The governor did not have the powers of veto and appointment. These were given to two special councils of which the governor, though a member, was only one among several other members. Even a veto made by a council could be overborne by the Legislature. The judges were appointed to office by one of these councils.

Constitution of 1821.—In the period between 1777 and 1821 the people experienced a change of feeling. They no longer had such a dread of tyranny as they had had when George III. ruled them, and they were more democratic in their attitude toward the privilege of voting. Several disputes having arisen under the Constitution of 1777 which could not be settled, a convention was called and drew up the Constitution of 1821. In accord with the changed feelings mentioned above, the restrictions on the privilege of voting were made less severe, the power of veto was taken from the council and put into the hands of the governor, subject of course to the power of the Legislature to pass a bill over his veto, and the power of appointment to such offices as those of the secretary of state, the treasurer, the attorney-general was taken away from the council and put into the hands of the Legislature. The appointment of judges, however, was invested with the governor, subject to the approval of the upper house of the Legislature. Thus by this Constitution the power of the governor was increased and the Legislature gained additional prerogatives in the matter of appointments.

Constitution of 1846.—Between 1821 and 1846 a great

wave of democracy swept over our country, New York included. The people showed themselves desirous of getting more and more power into their own hands, and of restricting the powers of both the governor and the Legislature. They no longer trusted the men whom they chose to represent them. By an amendment to the Constitution of 1821, passed in 1826, all property qualifications for the privilege of voting were swept away, and in 1845 another amendment was passed making it unnecessary for a man to have property in order to hold office. The result of these amendments was that the convention of 1846 called for revising the Constitution was overwhelmingly Democratic. The people had turned out in force to choose delegates to a convention which would give them the power. Thus by the Constitution of 1846 the power of appointing such officers as the secretary of state, the treasurer, and the attorney-general was taken away from the Legislature, and the power of appointing judges was taken away from the governor. Henceforth executive officers like those mentioned above and the judges were to be elected directly by the people. Heretofore the Legislature had been permitted to pass laws on almost all subjects, but in the Constitution of 1846 a list of subjects was put down on which the Legislature could not legislate. These restrictions, which relate to a variety of subjects, such as lotteries, divorces, charters, and State debts, have tended to increase as new constitutions are made or amended. With its powers in legislation more and more diminished the Legislature has declined in importance, and the people have used their right of revising and amending the Constitution as a sort of means of legislating directly for themselves.

Constitution of 1894.—By 1866 the need of a revision of the Constitution was again felt, and a convention was called in that year. Its work was unsatisfactory and its proposals were rejected by the people. Between that date and 1894 the people had grown to distrust the Legislature more and more and to place more confidence in the governor. They came to regard him and his veto as the bulwark against hasty and bad law-making by the Legislature. When, therefore, a convention met in 1894 to revise the Constitution there was an observable tendency to increase the governor's authority and to put more restrictions on the Legislature. The most important of these was that aimed against special laws for individual cities. In order to prevent it the Constitution divided the cities of the State into three classes according to their population. Then any law that may be passed affects all the cities of any one class and not simply a single city. Other clauses were added to the Constitution, making it the longest we have as yet had. As this Constitution of 1894 is that under which we are now living, we shall turn to its consideration.

SUGGESTIVE QUESTIONS.

1. Make a list of the things which you or your parents do day by day which are affected by (1) National laws, (2) State laws.
2. What is the difference between a legislature and a convention?
3. Sum up the advantages and disadvantages of having the people legislate directly by revising or amending the Constitution.
4. Find out the number of pages in the Federal Constitution and compare it with the number of pages in the State constitutions of 1777, 1821, 1846, 1894. (See Poore, *Charters and Constitutions*.)

CHAPTER II.

CONSTITUTIONAL RIGHTS.

Natural Rights.—In the eighteenth century, at the time when our first Constitution was made, the people generally believed that all early government began in what they called a “social compact.” According to that all men were in a state of nature something similar to the state in which we found the savages when we first came to this country. They thought that men all came together and decided to have a government. In order to do this men had to give up certain rights which they had all enjoyed as individuals before they decided to have a government. There were some rights, however, which were regarded as “inalienable”—that is, they could not be surrendered or given up by anybody. These rights were life, liberty, and the pursuit of happiness. It was thus that the people of the eighteenth century believed that government was a “necessary evil.” They thought that man had more rights in a “state of nature,” as they called it, than he had when governments were formed. Nowadays we know that people were all wrong in believing this. We know that government was a matter of very slow growth and did not come from any “social compact.” We know further that what rights we enjoy were made possible to us by an organized government. Before government grew up there were no rights which anybody could call his own. He was in danger of being killed,

of having his property taken away from him, or of being made a slave by somebody who was stronger than he. As there was no government, there was no one to whom he could look for protection. What good were his rights if he could not enjoy them? We know now that what rights we have are made possible to us by the government. We also know that if all the people, forming what is technically known as the "social body," wish to deprive individuals of the right of holding private property, they may do so. Government is only the machine which the people use to do their will. They may give to the government the power to do anything that they wish it to do, or they may deprive it of any power which they do not wish it to exercise. The powers which the government of this State is or is not to have are carefully laid down in the Constitution.

Divisions of the Constitution.—Our State Constitution, like the Federal Constitution, opens with a Preamble. This is: "WE, THE PEOPLE of the State of New York, grateful to Almighty God for our Freedom, in order to secure its blessings, DO ESTABLISH THIS CONSTITUTION." The Constitution is divided into fourteen articles, and these in turn are divided into sections, but for purposes of convenience we may group them all under four chief divisions. The first of these we will call the "Bill of Rights," because in it are placed certain rights which the people have declared that the government cannot take away from the individual (Articles I, II). The second division has to do with the "departments of government"—the Legislature, the Executive, and the Judiciary (Articles III, IV, V, VI). The third em-

braces powers other than those over individual rights which the people have denied to the government, or subjects on which they have chosen to legislate directly by placing them in the Constitution (Articles VII, VIII, IX, X, XI, XII, XIII). The fourth and last division deals with amendments to the Constitution (Articles XIV, XV).

Bill of Rights.—This is a portion of the Constitution about which the people of the time of the Revolution felt very strongly. From the time of the Magna Charta to the American rebellion from the tyranny of George III. Englishmen had struggled to prevent the government from denying certain rights to the individual. These rights had been set down in the most celebrated documents in English history—Magna Charta, 1215, Petition of Right, 1628, and the Bill of Rights, 1689. They are the same as appear in the first eight amendments to the Federal Constitution: Trial by jury, religious liberty, *habeas corpus*, no excessive bail, fines or punishments, indictment by a grand jury for serious offenses, no person to be twice put in jeopardy for the same offense, no one to be compelled in a criminal case to be a witness against himself, no person to be deprived of life, liberty, or property without due process of law, no private property to be taken for public use without just compensation, freedom of speech and the press, and right of petition. All of these are either clear in themselves or have been explained in the first portion of this book.

In addition to these there are certain other provisions restricting divorces, prohibiting lotteries, pool-selling, book-making, and other forms of gambling, and several

sections relating to an old system of landholding, which was in existence during colonial times.

Voting.—Of greatest importance are the clauses which relate to voting. This did not appear among the “rights” for which Englishmen had struggled in their early history. It is a “privilege” which has been granted to citizens without distinction in New York State only during the course of the nineteenth century. Now the Constitution provides: “No member of this State shall be *disfranchised*, or deprived of any rights or privileges secured to any citizen thereof unless by the law of the land, or the judgment of his peers.” That is to say, that the Legislature cannot by merely passing a law deprive a member of the State of such rights or privileges. To be deprived of them a member of the State must be tried and convicted of having done something which under the Constitution of the State makes him incapable of enjoying the rights and privileges of the ordinary citizen.

Qualifications of Voters.—Not everybody who lives in the State, however, enjoys the privilege of voting. The Constitution makes this clear. A voter must be a male citizen twenty-one years of age; he must have been a citizen for ninety days; and he must have been an inhabitant of the State for at least one year next preceding the election at which he offers his vote. But this is not all. He must be a resident in the place where he wishes to cast his ballot. He must have resided in the county for at least four months and in the election district for at least thirty days before election day.

Persons Excluded from Voting.—Nevertheless, a man having all the above qualifications is deprived of the privilege of voting if at any time he is convicted of having taken or given bribes at an election, or of having committed any other infamous crime. In earlier times, as we have seen, there were many more persons excluded from the privilege of voting than at present. Under the Constitution of 1777, all negroes, free or slave, were excluded; under that of 1821 free negroes owning a certain amount of property were allowed to vote, but it was not until the amendment of 1874 was made to the Constitution of 1846 that negroes were put on an equality with white men in the matter of voting. This was done in accordance with the Fifteenth Amendment to the Federal Constitution declared in force in 1870. White men also who did not own a certain amount of property were excluded from voting by the constitutions of 1777 and 1821, and it was not until 1826 that an amendment removed this restriction.

SUGGESTIVE QUESTIONS.

1. What was the Magna Charta? the Petition of Right? the English Bill of Rights? Find out their history and give their most important provisions.
2. Compare Article I of the Constitution of New York State with the first eight amendments to the Federal Constitution.
3. Are there countries where freedom of speech and freedom of the press are restricted?
4. Can you suggest any reasons why the prohibition concerning lotteries and other forms of gambling should be put into the Constitution?

CHAPTER III.

THE LEGISLATURE.

Necessity for a Legislature.—Upon the voters depends the government. If they are uneducated and corrupt, and pay little attention to politics, the government will be bad and poorly run. If they are honest and intelligent and take an active interest in it, the government will be well run. In very early times almost everything used to be attended to by the voters directly, but with the increase of population and the growth of large States this became impossible. The voters became so numerous that they could no longer meet together in a single place, and, if they could have met, they could not have made themselves heard. Then, again, those living far away from the place of meeting could not afford the time to come. So it became customary to turn over to others the duty of carrying on the government. For this purpose three departments came to be organized: one, the Legislature, to make the laws; another, the Executive, to see that they were carried out or executed; and still another, the Judiciary, to decide on the meaning of laws, settle disputes, and declare whether the law was to be applied to a particular case. This threefold division lies at the basis of our government, and though each division is closely connected with the others we treat them under

separate heads for the sake of clearness. This chapter is to deal with the first division—the Legislature.

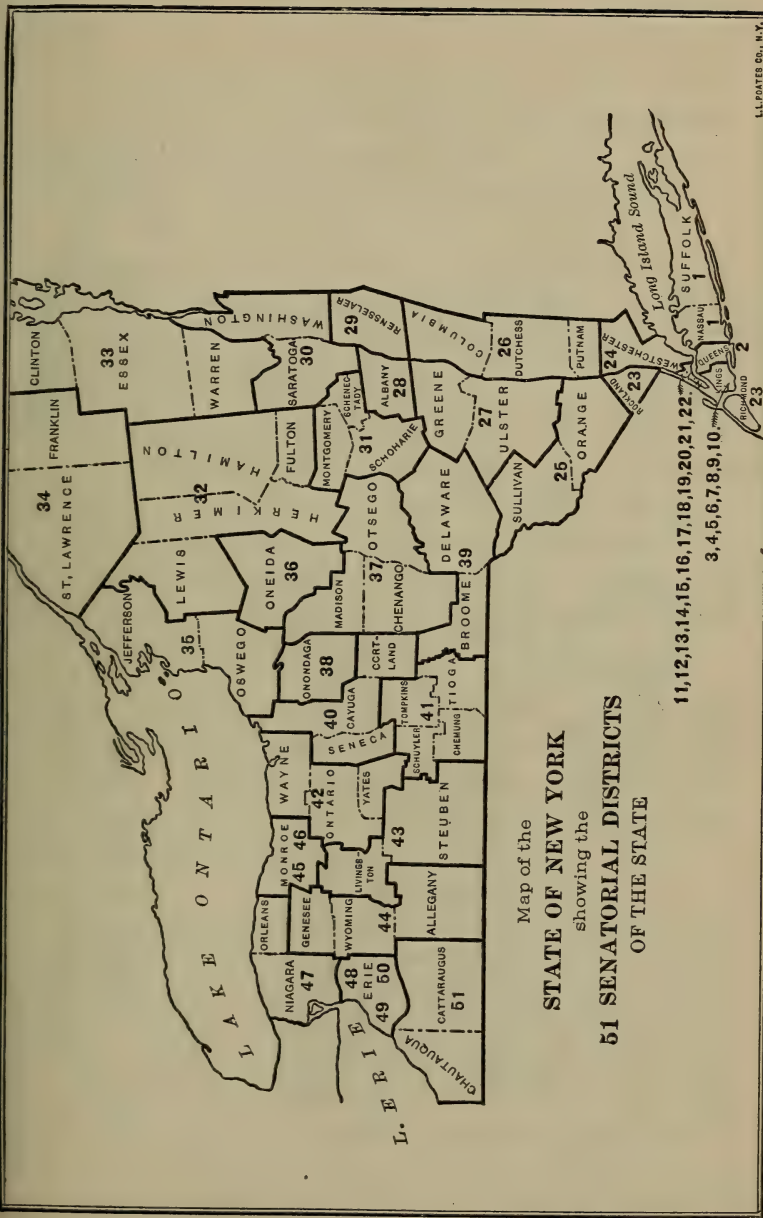
Division into Houses.—Our Legislature is divided into two houses, the Senate and the Assembly. The first has fifty members elected every two years, and the second three times as many elected every year. The election is on the Tuesday after the first Monday in November.

Senate Districts.—The State is divided by the Legislature into fifty districts, and from each a Senator is chosen. In making the division into districts an attempt is made to have about the same number of people in each, but as the county boundaries must also be thought of, this is not always strictly possible. For instance, it is not allowed to take a part of one county and a part of another and put them together to form a Senate District. A single county may form a Senate District, like Albany County, or a county may be divided into many Senate Districts, like Erie and New York counties, or two or more counties may be put together to form a Senate District, but the county boundaries must always remain intact. Under certain conditions too complicated to be gone into we may even have fifty-one Senators in New York State, and though this is likely to happen but seldom, it is the condition at the present time. Then, again, no matter what the population of the county may be, even if it is more than half of the population of the State, it cannot have more than one-third of the Senate districts, and no two adjoining counties may have more than half of the Senate districts. The object of this constitutional provision, is of course, to prevent any one sec-

tion of the State from controlling the Senate; but with the increase in the population of the counties which form New York City it is going to be difficult to prevent such control.

Assembly Districts.—For purposes of the Assembly the whole State is divided into one hundred and fifty districts. Here, as in the case of the Senate districts, the county boundaries must be respected, but as the Assembly districts are smaller, it so happens that every county, with one exception, is formed into one or more Assembly districts, according to its population. The only exception is in the case of Hamilton and Fulton counties, which, on account of the small number of their population, form one Assembly District. In cases, however, where a county is divided into several Senate districts, each of these shall have the same number of Assembly districts. The Legislature assigns to each county the number of Assembly districts which it is to have. The division into Assembly districts is made by the Board of Supervisors of the county if it have more than one district. The Board of Aldermen makes the division for the counties comprising New York City.

Census.—The State is “re-districted” by the Legislature every ten years. For the purpose of making the Senate and Assembly districts it is necessary to know the number of people in the State and their residence. So in the Constitution it is provided that every ten years a State census shall be taken. The first of these has just been taken in 1905, and there will be another in 1915. As the National government also takes a census every ten years,



the last being in 1910, we have a census every five years. According to the basis on which we are now running each Senate District has approximately 159,000 inhabitants, and an Assembly District about 53,000. With the new census of 1915, however, these numbers will be larger.

Members.—To be a member of either house a man must be a citizen of the State and twenty-one years of age. He cannot hold, or have held within one hundred days previous to his election, office as a United States Congressman, a civil or military office under the United States Government, or an office under any city government. If he accepts any such office after he is chosen to the State Legislature, he loses his seat. A member is not required by the Constitution to be a resident of the district from which he is chosen, but by law this residence is made necessary. He is also disqualified for the office if he has committed some infamous crime.

Privileges of Members.—Members are paid for their services, are exempt from arrest in a civil action while attending a session of the Legislature, and cannot be questioned in any other place for anything they may have said in the Legislature.

Meeting and Organization.—The Legislature meets every year, and assembles on the first Wednesday of January. In organization it resembles very closely the Congress of the United States. The officers and the committee system of doing business are almost the same. The Lieutenant Governor is the presiding officer in the Senate. In case he is absent a temporary president is

chosen by the members. In the Assembly the presiding officer is called the Speaker and is chosen by the members. There are besides many subordinate officers in both houses, such as clerks, stenographers, and door-keepers, some of whom are appointed by the presiding officers and some elected by the members. Each house determines the rules of its own procedure, and judges of the elections, returns, and qualifications of its own members. Each house must keep a journal of its proceedings and must allow the public to see it or to hear the proceedings in the open house, except in such cases as demand secrecy for the sake of the public welfare. Neither house may adjourn for more than two days without the consent of the other. A majority of each house shall constitute a quorum to do business, but in the case of the final passage of a bill levying taxes, creating a debt, or appropriating money or property, three-fifths of the members elected must be present. The business is conducted by means of committees appointed by the presiding officer in each house. To these committees are referred the particular bills on subjects which they are appointed to consider. To the Committee on Railroads, for example, are referred all bills affecting railroads. There are other committees on finance, judiciary, cities, canals, education, taxation, etc.

Powers of the Legislature.—In general, it may be said that the Legislature has power to pass laws on all subjects (1) not prohibited by the United States Constitution (Article I, Section X), (2) not expressly granted to the National government, (3) and not prohibited by the State Constitution. Of these, the third class is the

most numerous, and the tendency is for it to become more so. In spite of this, however, the powers of the Legislature are very broad, for it has to do with the everyday concerns of the people. Besides its legislative powers, it also has executive and judicial functions. The Senate, for example, has the right to confirm or reject appointments made by the Governor, and acts as a court of trial in cases of officers impeached by the Assembly.

Methods of Procedure.—There is no difference between the two houses in the powers which they exercise over legislation. All bills—even those appropriating money—may originate in either house. All laws must be passed by both houses, and must have the assent of the majority of the members elected to each house. Those appropriating money or property for local or private purposes must have the votes of two-thirds of the members elected to each house. All bills passed by one house may be amended in the other. The enacting clause of all bills is: “The People of the State of New York, represented in Senate and Assembly, do enact as follows:” and no law can be enacted except by bill.

The Making of Laws.—Each house determines for itself the proceedings which must be gone through before a bill can become a law. These are to be found in small pamphlets entitled, “Rules and Orders of the Senate” and “Rules and Orders of the Assembly.” These differ in small details, but in general we may say that a bill passes through three important stages. (1) A bill is introduced by a member from his place, or on the report of a committee, or by a message from the other house. The bill is then given its *first reading* by the Clerk, usu-

ally by title only, and is then referred to the committee which has charge of the subject to which the bill relates. (2) This committee then takes the bill in hand. If the committee thinks the bill worthy of passing, it may discuss it very fully, have hearings on it of people interested, may make any modifications it sees fit, and then report it back to the house. If the committee does not like the bill, it may report against it, and thus "kill the bill in committee," as the saying goes. The house may, of course, demand to have a bill reported to it, but it seldom does. If, however, the bill is reported favorably, and the house accepts the report, it is then given its *second reading* at some specified time. After this reading time is allowed for debate. After this is done, the bill may be adopted in whole or in part, or amended, or referred to the Committee of the Whole. In the Senate every bill must be referred to the Committee of the Whole before it can have its third reading, but in the Assembly it need not be unless two-thirds of the members present demand it. The object in referring a bill to the Committee of the Whole is to get more opportunity for debate. In this committee the ordinary rules of the house, which only allow of a short time for debate, are suspended, and a more informal discussion takes place. If the bill is passed after the second reading, it is ordered to be printed and distributed to the members. A time is set for its *third reading*. At that time the "ayes" and "noes" are taken and entered on the journal of the house. No debate is allowed. If the vote is affirmative, the bill is then sent to the other house, where it is dealt with in much the same fashion. If that house passes it, it is ready for the Governor.

Checks.—The object of all this complicated procedure is to facilitate business, and to insure careful consideration of each bill, while the object of having two houses is for one to form a check on the other.

Conference Committee.—It may happen, however, that one house amends the bill of the other in a way which is not acceptable. To settle the matter a Conference Committee, composed of members of both houses, is appointed. This committee tries to make a compromise satisfactory to both houses, but sometimes it does not succeed and the bill fails to become law.

Submission to the Governor.—If the bill, however, is finally passed by both houses it is sent to the Governor. If he signs it, it becomes law; but if he disapproves it, he “veto” it and sends it back with his objections to the house in which the bill was first introduced. If the Governor does not return the bill within ten days (Sundays excepted) after he receives it, it becomes law without his signature; or if he vetoes it and the houses re-pass it with a two-thirds majority the signature of the Governor is not necessary. No bill, however, can become a law after the final adjournment of the Legislature unless approved by the Governor within thirty days after such adjournment. These bills are known as “thirty-day bills,” and there is always a large number of them. Many the Governor signs, but he allows a good many to “die” by failing to sign them.

Restrictions on the Legislature.—Originally the Legislature was able to pass laws on almost every variety of

subject, except, of course, on those prohibited by the National Constitution. The people later grew distrustful and began to put into the State Constitution certain subjects upon which the Legislature could not legislate. These are too numerous to give a complete list, but in general they may be grouped under two heads: (1) Financial restrictions and (2) restrictions on private and local bills. Under the first heading we may note the following: (*a*) An appropriation bill must not contain any provision not relating to the appropriation. This is to prevent the evil known as "riders." On bills appropriating money for the expenses of the government the Legislature would put a clause which had nothing to do with the appropriation, but related to some entirely different matter. The Governor might not wish to give this clause his approval, but as he needed the money he had to sign the bill, and thus the objectionable clause would become law. This has been done away with now, and the Governor may also veto any particular item of an appropriation bill without vetoing the whole bill. (*b*) The Legislature may not lend the State's money or credit for the benefit of an individual, association, or corporation. (*c*) The Legislature cannot contract debts to meet current expenses in excess of one million dollars, except to defend the State in time of invasion, insurrection, or war, and the money thus raised cannot be used for any other purpose whatsoever. (*d*) No extraordinary debt shall be contracted unless it is duly authorized by law for some special object, and even then it cannot be valid until it is submitted to the people at some general election and approved of by a majority of all the votes cast.

Private and Local Bills.—The Legislature used to pass many private or local bills, usually for the benefit but sometimes to the detriment of one person or locality. This was the source of much corruption, and now the Constitution declares that any such bill must not embrace more than one subject, and that must be expressed in the title. Further than this there are some fourteen different subjects on which the Legislature may not pass private or local bills. The most important of these are: (*a*) The laying out or altering of highways; (*b*) locating or changing of county seats; (*c*) incorporating villages; (*d*) regulating the rate of interest on money; (*e*) granting to any corporation the right to lay down railroad tracks; (*f*) granting to any private corporation any exclusive privilege or franchise whatever; (*g*) granting an exemption from taxation. All laws on such subjects must be of a general nature and not be applicable simply to one person or locality, but to many.

Indirect Restrictions.—In addition to the direct prohibitions on the Legislature there are numerous clauses contained in Articles VII–XIII of the Constitution which we may call indirect restrictions. These are subjects which the people would not trust to the Legislature, but which they wished to withdraw from its control by putting clauses in the Constitution relating to them. Such restrictions are those which direct the Legislature to provide for a forest preserve, canals, charitable and educational institutions, a militia, the organization of counties and cities. They would not trust the Legislature to legislate concerning bribery and free passes on the railroads, and so put clauses in the Constitution re-

lating to them. A clause about the last of these makes it a misdemeanor for any holder of an office under the State to receive a pass.

General Similarity to Congress.—Our outline of the State Legislature has served to show us how very similar it is in many ways to the Congress of the United States. In our next chapter we are to find out if the Legislature works out in practice the way it is supposed to work in theory.

SUGGESTIVE QUESTIONS.

1. What reasons are there for favoring annual rather than biennial sessions of the Legislature?
2. When was the last census taken by the United States? By the State? When was the last apportionment of Senate and Assembly districts made? Why is apportionment required so frequently?
3. How large is the Assembly District in which you live? What territory does your Senate District include? Who is your Assemblyman? Your Senator? When was each elected? When will their successors be elected?
4. According to the last apportionment what were the ratios for Senate and Assembly districts? Find the population of several districts and see how nearly they correspond to the ratio.
5. When did the last regular session of the Legislature occur? How long did it last? Which party had a majority in the Senate? In the Assembly? How large were these majorities?
6. What were the most important subjects considered by the Legislature at this session? What important laws were enacted?
7. What reasons can you give for granting to the Legislature those privileges mentioned in this chapter?

8. Do the people of the State take as much interest in the work of the Legislature as in the work of Congress?
9. In what ways may vacancies occur in the Legislature?
10. What persons may not receive passes? What reasons can you give for this prohibition? Why was this provision made a part of the Constitution, instead of remaining a mere law?
11. In how many ways may a bill become a law? In how many ways may it fail to become a law?
12. Why should the Governor have the power to veto a bill?
13. Can you determine from the titles of committees given in the Legislative Manual what matters are considered by each committee?
14. What is meant by a "Committee of the Whole"?
15. Look up the definition of a corporation.
16. Find out the difference between a private and a public corporation.

CHAPTER IV.

THE WORKING OF THE LEGISLATURE.

The Difference between Theory and Practice.—We often hear it said that things may work well in theory, but not in practice. Our State government, as well as our National government, does work remarkably well in practice, but that fact is no reason why we should close our eyes to some of its faults. It is very difficult for us to see our own faults, and these have been best pointed out to us by foreigners who have examined our institutions.

Character of the Members of the Legislature.—Some very excellent men have sat in our Legislature, but also some who were inferior. It is natural to ask how these get in. In part this is undoubtedly due to our "district system," which makes it necessary for a member of the Legislature to live in the district which he represents. In theory it ought to be possible to find a man of eminence in every district, but in practice it often is not. Men of ability sometimes do not wish to go to the Legislature, and then the voters must take an inferior man. At other times a strong man fails of reelection because he has offended the political boss of the district, or has not been pleasing to some particular faction in it. Thus the

State loses his services because he cannot be elected from another district unless he resides in it, and it is not always possible or convenient for him to move. So it is that legislators frequently vote for measures that they do not think right or good for the interests of the State at large, because they are afraid of offending the leader, or the voters of the district from which they are chosen, and so of losing their seat at the next election. This makes our legislators narrow statesmen. Under these circumstances we may well ask ourselves if we could not improve matters by allowing our representative to be chosen from anywhere within the State.

Short Terms.—The election of Assemblymen every year and Senators every two years is not in itself a bad system. It enables us to get rid of an incapable man, but this very fact makes us careless of the character of the man we elect. At elections we do not reelect good men frequently enough. We wish to give too many a chance. A man no sooner gets into the working of the Legislature than he has to get out. We make demands on our representative to do things for our district, and unless he does them, out he goes. This puts him under the necessity of thinking all the time about his reelection. He plays to the “grand stand,” for, unless he does, he knows that his public career will be cut short by the voters, even if it is not by the political boss. Such short terms of office destroy the efficiency of our legislators.

Effects of Restrictions on the Legislature.—To send a man to the Legislature to make laws, and then to make a long list of subjects on which he cannot legislate does

not give to the office the dignity it should have. A truly great man likes responsibility, and if he is not to have it he does not wish the office. Men of less ability will go where he refuses to go. Their motives are not always the best and they do not make the best legislators.

Fear of the Legislature.—Some people argue that we must restrict the Legislature, for if we do not it will do harm by passing bad laws. Such men always give a sigh of relief when the Legislature closes its session. But we must remember that if bad men are sent to the Legislature it is our fault and not theirs. We as voters are responsible for them, and if we do not attend to our duties as voters, they will not attend to theirs as legislators. Perhaps if we gave them greater responsibility and watched them more closely, we might find more capable men desiring to go to the Legislature to make names for themselves.

Lack of Public Interest in the Legislature.—Though, as we have seen, the State has more to do with our daily life than the National government, it is remarkable that we take more interest in the doings of the latter than of the former. Our newspapers devote very little space to the proceedings in the legislative chambers at Albany. The result of all this is that bad bills are often put through, and “jokers” in bills are of frequent occurrence. These are clauses in otherwise good bills which are not for the public welfare, and which are allowed to remain in the bill simply because the general public has not paid attention to what the Legislature is doing. This failure of the people to watch the Legislature is also

largely responsible for much of the corruption which is to be found at times among our legislators.

The Committee System.—The doing of the large bulk of the work in the Legislature by means of committees is also responsible for many bad bills, though, of course, the system does permit of the Legislature accomplishing a great deal of work. "What the committee says goes," is a common saying. The committee being a small body can be much more easily influenced by interested parties, and thus frequently reports a bill, and the Legislature passes it, which would not pass if the Legislature were compelled to examine it more closely. Much hasty and ill-considered legislation is put through as the result of this system.

Actual Law-Making.—At first legislation seems a very simple matter. We think of an assembly of legislators gathered together to make laws for us. A member rises from his seat, and, getting recognition from the presiding officer, proposes a bill, or presents a long argument for or against one which is before the house. In practice he does no such thing. If he wishes to speak on an important measure he has to arrange beforehand to be recognized by the presiding officer, and the latter is not always willing to do it. If sufficient pressure cannot be brought to bear to get recognition, the member may rise from his seat in vain, he is not recognized and is not allowed to speak. Even if he obtains recognition, the time he may speak is very much limited. The result of this is that the bills are voted upon with very little debate or discussion. As the members of a political party are,

therefore, frequently in doubt how they are to vote, they all meet "in caucus" at some time and place outside the legislative chamber, and there decide how to vote on a given bill. Such practices are resorted to on account of the enormous number of bills which comes before the Legislature every session. There are so many that the members have barely time to read them privately, much less to hear them discussed at length in the hours when the Legislature is sitting. Many a legislator thus votes for or against a bill which he has not even read. Some say that the Legislature passes more laws than can be enforced by the executive, and that we could well do without many of them. This is very probably true, but for every bill that is passed several others fail of passage. All of them, however, take up the time of the Legislature.

The Lobby.—Nothing is so responsible for the large number of bills presented in the Legislature as the "lobby." This term is applied to two things: (1) The hall or space outside the doors of the legislative chambers; (2) the group of men who assemble there to urge legislators to pass or defeat certain bills. The individuals of this group are known as "lobbyists." They go to the State Capitol to represent either their own interests or those of others. We often think that the members of the Legislature consider the needs of the community and bring in bills of their own to satisfy those needs. As a matter of fact, a very large number of bills brought into the Legislature are suggested and worked up by members of that group of men known as the lobby. As they have everything to gain by their bills they are very persistent in getting members of the Legislature to vote

for them and in bringing all sorts of "pressure" to bear. The greatest evils we suffer from are due to this lobby, for the bill of the lobbyist is usually for the benefit of the few at the expense of the many. The Legislature itself is sometimes accused of bringing in "strike bills"—that is, bills against certain corporations—for the purpose of being bought off by the lobby. In some of the Western States they are trying to prohibit "lobbying," and in our own State certain restrictions have been placed upon it.

The Machine.—The lobby frequently seeks and gets the support of what is known as the "machine." This usually means that group of party politicians, either within or without the Legislature, who are able, on account of their great influence with the party, to compel the members of their party in the Legislature to vote as they dictate under pain of defeat at the next election if they refuse. We often hear it stated that such and such a bill has been "jammed" through the Legislature, or defeated, at the dictation of a party leader, and that the vote taken was strictly along "party lines." This means, of course, that the members of the Legislature voted regardless of argument or debate. They closed their ears to all reason and voted as they were told. This sort of thing takes place more frequently in our Legislature than in the Congress of the United States, and more so than in the Legislature of any other State.¹ If this is true, then we as voters are responsible. Laws should be made with

¹ See a report of Mr. A. L. Lowell in the Proceedings of the American Historical Association for 1901.

cool deliberation and not "jammed" through in this fashion.

Lack of Business Principle.—The lobby and the machine serve to make our legislators ignore the fundamentals of business principle and morality. They run the government on a basis that they would not think of employing in their private business. They forget that the offices which they hold are trusts which they should not violate on account of any amount of pressure from the lobby and the machine.

Our Remedy.—Other faults of the National Congress, such as the use of "log-rolling" and "patronage," do not exist to any great extent in our State Legislature; but we have cited enough to show that our methods are not entirely perfect. To know our faults, however, and to do nothing to remedy them is worse than not knowing them at all. We should know our imperfections in order that we may try to improve them. As we live under a democratic government we should always remember that whatever faults exist in it rest on our shoulders. So when we feel inclined to decry the men we elect, we should be ready to acknowledge that if they are bad it is we who are to blame. We cannot excuse ourselves by saying that we have not the time to devote to politics. It is our business to make time, and if we fail to do so, we have no real right to complain.

SUGGESTIVE QUESTIONS.

1. Give arguments for and against placing many restrictions on the Legislature.
2. Explain "log-rolling" and "patronage."

3. Give the advantages and disadvantages of the "committee system" of doing legislative business.
4. Find out if there is any country in which members of the legislative branch of the government do not have to reside in the districts by which they are chosen. What effect do you think this would have on the quality of the men chosen and on the length of time that they remain in public service?
5. Does the Constitution of the United States make it necessary for a member of the House of Representatives to reside in the district from which he is chosen? If not, does he usually do so? Why? Can you find out if there is any place in New York State where this principle is violated?

CHAPTER V.

THE EXECUTIVE.

Responsibility.—The Executive Department of the State government consists of those officers whose business it is to see that the laws passed by the Legislature are put into operation and enforced. In colonial times, when the Governor was appointed by the English crown, he used to appoint in turn the other executive officers. Such a system was not liked by the people after the Revolution, and they soon brought it to pass that almost all of the most important officials were to be elected by the people. This, of course, made them all directly responsible to the people. In this respect the State government is not at all like the Federal government, for there, as we saw, the chief executive officer, the President, is alone responsible to the people, and the other executive officials are appointed by and are responsible to him.

The Governor.—The Governor is the title of the chief executive officer of the State. He is elected at the same time and places as members of the Legislature, and holds office for two years. To be eligible he must be: (1) A citizen of the United States; (2) not less than thirty years of age; (3) a resident of this State for five years next preceding his election. Like the President, he has to take an oath of office and also to swear that he has not used money or other unfair means to procure election.

Powers of the Governor.—He is commander-in-chief of the military and naval forces of the State. He may convene both houses of the Legislature or the Senate alone in extra sessions, at which, however, only the subject for which he calls them together is to be considered. He may grant reprieves, commutations, and pardons except in cases where the convicted person has been guilty of treason or been tried on articles of impeachment. He has the appointment, by and with the advice and consent of the Senate, of many State officers. He may suspend or remove certain State and local officers for wrongdoing. He has the power, as we saw above, to accept and sign bills, or to reject and veto them.

Duties of the Governor.—The Governor has many duties, and they are constantly increasing in number. We can consider only the most important. He must communicate by message to the Legislature at every session on the condition of the State, and recommend such measures as he thinks best. He must see to it that the laws are faithfully executed. In case he grants pardons, commutations of sentence, or reprieves to a convicted criminal, he must report the matter to the Legislature at its next session.

The Lieutenant Governor.—The Lieutenant Governor must have the same qualifications for office as the Governor, and is elected in the same way. Ordinarily his sole duty is to preside over the Senate, but he is not a member of that body, and has a vote only in case of a tie. Should the office of Governor become vacant from any cause the Lieutenant Governor succeeds to it. In case of the death of both the Governor and the Lieutenant Gov-

ernor the office of Governor goes to the President of the Senate, and in case of his death to the Speaker of the Assembly.

Lower Executive Officers.—The officers of the Executive Department below the Governor and Lieutenant Governor may be divided into four classes: (1) Elected; (2) appointed; (3) appointed boards; (4) ex-officio boards.

Elected Officers.—There are five officers elected by the people, besides the Governor and Lieutenant Governor, for the term of two years. (1) The Secretary of State has charge of the great seal and records of the State, superintends the publication of laws, the taking of the State census, and the granting of commissions and certificates of incorporation. (2) The Comptroller audits the public accounts, superintends the collection of taxes, makes an annual report to the Legislature of income and expenditures of the State Government, gives an estimate of the amount of money needed for State expenses for the next year, and issues orders or warrants for any money which is to be drawn from the State Treasury. (3) The Treasurer is the custodian of the money received by the State, and may pay it out only on an order from the Comptroller. (4) The Attorney-General is the law officer of the State and the legal adviser of the other State officers. He protects the interests of the State in courts in which they are involved, and must prosecute criminals if directed to do so by the Governor or Justices of the Supreme Court. (5) The State Engineer and Surveyor has charge of the survey of public lands, the laying out

and construction of State roads, and a certain control over the building and repair of canals.

Appointed Officers.—Besides the officers elected directly by the people there is a large number of officers of whom some are (*a*) appointed directly by the Governor with the consent of the Senate, (*b*) others by the Governor in conjunction with some other officers, and (*c*) still others by the Legislature. We cannot give all of these officers here, but will mention the most important: (1) The Superintendent of Public Works, (2) the Superintendent of Insurance, (3) the Superintendent of Banks, (4) the Superintendent of Prisons, (5) the Commissioner of Health, (6) the Commissioner of Agriculture, and (7) the Commissioner of Labor are appointed by the Governor with the consent of the Senate for terms of varying length. The duties of most of them are obvious from their titles. The first and third call for a little explanation. The main duties of the Superintendent of Public Works have to do with the construction, repair, and navigation of canals, and those of the Superintendent of Banks have to do with the supervision of all banks, trust, loan, and guaranty companies which are organized under the laws of this State.

The Superintendent of Weights and Measures and the Superintendent of Public Buildings are appointed by the Governor in conjunction with some other officers, and the Regents are appointed by the Legislature.

Appointed Boards.—Much of the work of the Executive Department of the State government is done by boards of several men appointed by the Governor with the con-

sent of the Senate. Their duties are mainly those of inspection. Such boards or commissions are the State Board of Charities, the Lunacy Commission, the Prison Commission, the Public Service Commissions, the Tax Commission, Port Wardens, the Quarantine Commission, and the Civil Service Commission. (See p. 142.)

Ex-Officio Boards.—The boards known as “ex-officio” boards are made up of officials who are members because they hold certain offices. There are several such boards. One, for example, is that of the Commissioners of the Land Office, consisting of the Lieutenant Governor, the Speaker of the Assembly, the Secretary of State, the Comptroller, the Treasurer, the Attorney-General, and the State Engineer and Surveyor.

Importance of the Governor of New York State.—New York is one of the few States of the Union whose Governor occupies a high position in the public eye. It is an office much sought after, and is frequently a stepping-stone to the higher position of President of the United States. For this reason very prominent men have held it and will continue to hold it.

Power of the Governor.—The people have shown a tendency in recent years to increase the Governor’s power. They have realized that added responsibility does not make a tyrant, but that additional powers frequently sober a man and make him a better Governor than when almost all power is taken away from him. Then, again, greater responsibility also makes it possible for the people to place the blame for bad as well as good measures.

This cannot be shifted so easily as when the responsibility is divided among many.

One-Man Power.—We often hear it said that if you wish a thing done well you must give it entirely into the hands of one man to do, and then see that he does it. Certainly this seems true when we compare the efficient work done by our Governor with the poor work done by many of our commissions and boards. The various members of these shift the responsibility on to the others, and as nobody is made responsible by law it is difficult to find the man who is really at fault. There is not so much danger in giving our Governor more power as there is in giving our President more power. The Governor's duties are largely routine. He has no foreign policy to carry out, no regular army to command, no navy that he could use against the people. It would seem that we might still increase the powers of the Governor and not suffer from tyranny.

Control of the Governor by the Machine.—There is, however, one danger that always confronts us. The candidate for Governor is usually a party man, and owes his nomination and election to a party. He cannot afford to offend the leaders of it, for if he does, he will fail of nomination and election when he runs. Once in office he must keep on friendly terms with all elements of the party if he expects to run for the office a second time. Thus it frequently happens that the Governor does or is forced to do things of which he does not approve—things which he feels are not for the best interests of the State at large. The party machine is strong and will defeat

him if he does not do its bidding. The truly strong Governor defies the machine and throws himself upon the support of the people. If the latter are negligent and do not mind their political duties, the Governor will be defeated largely because he has been looking out for their interests rather than for those of a few private individuals who have the machine on their side. Here, as in the case of the Legislature, it is our duty as voters to support the man who is honestly striving to look out for the interests of the people. When we hear of "grab" bills being "jammed" through the Legislature and signed by the Governor at the dictation of great party leaders we may know that all is not well. The Governor is not running the government on business principles for the best interests of the governed, but for the benefit of a few private individuals. Sometimes the Governor is weak and is only there to serve the machine. At other times, however, he is strong, but as the people do not show him that they are behind him he weakly gives in to the demands of selfish interests. For his weakness as well as for the weak Governor the voters of the State are responsible, and have only themselves to blame. Eternal watchfulness on the part of the voters is the price we must pay for a good Governor as well as a good Legislature.

The Legislature and the Governor's Veto.—It is very difficult for us to place the responsibility for a bad bill on any member of the Legislature. The member who introduced it lays the blame on the committee who takes charge of it, either because the committee made so many changes in it or did not remedy its faults. The committee refuses

to take the blame because it did not introduce the bill. The houses do not hold themselves at fault, saying that they took the committee's word for the bill. The public is puzzled and nobody in the Legislature suffers. The people, however, have increasing confidence in the Governor's veto to save them from the evils of bad legislation. They rely upon the Governor to reject any measures which are not for the public welfare. On him at least responsibility may be placed. It seldom happens that the Legislature is rash enough to pass a bill over his veto. In fact, it often happens that certain members of that body, in order to stand well with the machine, vote for bills which they hope and sometimes know that the Governor will veto.

SUGGESTIVE QUESTIONS.

1. Why is the restriction placed upon the power of the Legislature in special session? Is there such a restriction upon Congress?
2. What is a reprieve? a commutation? a pardon? Why should the Governor report these matters to the Legislature? Why are exceptions made in cases of impeachment and treason?
3. What are the laws in this State relating to the labor of children? (See the Revised Statutes.)
4. What are quarantine regulations? Find out some and cite for example. Who enforces them?
5. What are pure food laws? Name some. Who enforces them?

CHAPTER VI.

THE JUDICIARY.

Judicial Officers.—The third or judicial department of the State government consists of those officers, called judges, whose duty it is (1) to interpret or declare the exact meaning of the laws of the State, (2) to decide whether they have been violated by any accused individual or body of individuals, and (3) to decree the punishment set by law for such violation. In early times the judges were appointed by the Governor and held office during good behavior, but by the Constitution of 1846 they were almost all made elective by the people, and their terms of office were limited to a specified number of years.

Kinds of Courts.—When performing their duties the judges generally sit in courts. The court may consist of one or of many judges. In the State there are many different courts. They may be divided into two groups (1) Central and (2) Local. Under the head of Central are placed those courts whose powers extend over the whole State, and under the head of Local those courts whose powers cover only a small portion of the territory of the State.

Central Courts.—The central courts consist of (1) the

Court of Impeachment, (2) the Court of Appeals, and (3) the Supreme Court.

Court of Impeachment.—The Court of Impeachment is organized for the purpose of trying public officers who are accused, or, technically speaking, impeached, by a majority of the members elected to the Assembly. It consists of the President of the Senate, the Senators, or a majority of them, and the judges of the Court of Appeals, or a majority of them. In case of the impeachment of the Governor or Lieutenant Governor, the latter cannot be a member of the court. The accused to be found guilty must have a vote of two-thirds of the court against him, and even then judgment may extend no further than removal from office, and disqualification to hold any office of honor or trust under the State. The party impeached, however, is liable to indictment and punishment according to law in other courts.

Court of Appeals.—The Court of Appeals is the highest court of appeal in the State to which cases from the lower courts can be brought. If a case is to be taken higher than this, that is, to the Federal courts, it must be shown that the Federal Constitution, laws, or treaties are involved. Otherwise the decision of the Court of Appeals is final. It consists of one Chief Judge and six Associate Judges elected by the voters of the whole State for terms of fourteen years. Five members form a quorum, and the concurrence of four is necessary to a decision. This court does not try cases, as we ordinarily think of a trial, but can only review the decisions of law handed up to it from the Appellate Division of the Supreme Court.

There is, however, one exception to this. In cases involving the death penalty appeals may be made directly to this court from the court in which the trial was held, and then the Court of Appeals may review questions of fact in addition to questions of law.

The Supreme Court.—The Supreme Court is organized for hearing important civil and criminal cases. Civil cases for amounts above \$2,000, criminal cases involving the death penalty, and other criminal cases of a serious nature go to the Supreme Court. A case may be brought to it directly, or on an appeal from a lower court. It consists of one hundred and two justices elected by the people for terms of fourteen years. For purposes of organization and election the State is divided by the Legislature into four judicial departments and also into nine Supreme Court districts. A certain number of justices are chosen from each district, as thirty-one from the First District, which is New York County, and smaller numbers from the other districts, which each include several counties. Though elected from various districts, however, these justices may exercise their functions in any part of the State.

Appellate Division of the Supreme Court.—The cases which come to the Supreme Court on appeal from lower courts, or from another branch of the Supreme Court, go to the Appellate Division of the Supreme Court, which is organized for the sole purpose of taking care of appeals. There is an Appellate Division for each of the four departments mentioned above. From the whole number of one hundred and two justices the Governor selects a certain number to act for terms of five years as Appellate Justices in each



department—seven in the First and Second Departments, sitting at New York City and Brooklyn, and five in each of the other two departments, which sit at Albany and Rochester, respectively. In each department four justices form a quorum, and the concurrence of three is necessary for a decision.

Trial and Special Terms of the Supreme Court.—The other justices of the Supreme Court are engaged in hearing cases which are brought to it directly, and not on appeal from other courts. For this purpose “trial” and “special” terms of the Supreme Court are held at stated intervals in every county. In a “trial” term a Supreme Court Justice presides and hears civil and criminal cases involving questions of fact, and therefore requiring the aid of a jury to pass upon them. A jury, however, may be dispensed with in a civil case if both parties agree. In a “special” term the justice decides cases or questions of law which do not require the aid of a jury, as no questions of fact are involved.

Local Courts.—Under this head are placed: (1) the County Courts, (2) the Surrogates’ Courts, (3) Justices’ Courts, (4) Municipal Courts, and (5) Coroners’ Courts.

County Courts.—In every county there is a County Court. This is presided over by a judge (in Kings County there are two judges) chosen by the voters of the county for a term of six years. Before this court come all criminal cases arising in the county (except those involving the death penalty), and all civil cases for amounts of \$2,000 and less. The County Court is also a court to

which appeals are made from courts below it. In New York County, on account of its enormous population and the great mass of business to be attended to, the ordinary County Court was not sufficient. Accordingly, two courts were set up: (1) the Court of General Sessions to hear criminal cases, and (2) the City Court to hear civil cases. Both of these courts have special sets of justices. The Court of General Sessions has a grand jury drawn for it and can hear cases involving the death penalty.

Surrogates' Courts.—In nearly all of the counties there is a Surrogate's Court. This is presided over by a judge known as a Surrogate, who is chosen for a term of six (New York County fourteen) years by all the voters in the county. Before this court come all matters relating to the estates of deceased persons, such as the proving of wills, the granting of letters of administration when no will is left, and the appointing of guardians for minors. When a county, on account of the smallness of its population, has no Surrogate, such matters are attended to by the County Judge.

Justices of the Peace.—In each town there are elected four Justices of the Peace for terms of four years, two being chosen every two years. Each of these holds a separate court within the town. These justices hear minor criminal cases, and civil cases involving \$200 or less. They have the power, however, to issue warrants for the arrest of persons charged with any crime, and may, after an examination of the facts, admit the accused to bail, or hold them in confinement to await the action of the grand jury. In the villages existing within a town

there is a court presided over by a Police Justice who has charge of very small offenses.

Municipal Courts.—We saw that counties with a large population had to have a special system of county courts. In the same way cities, or municipalities as they are sometimes called, need a special system of town courts. Thus in large cities the duties of the Justices of the Peace are usually divided between two courts: (1) one having charge of civil and (2) the other having charge of criminal cases. In addition to these, there are numerous Police Courts presided over by Magistrates corresponding to the Police Justice of the village. All of these are necessary to handle the large amount of judicial business which arises in our cities. In New York City, for example, there are two courts: (1) The Municipal Court consisting of forty-four justices elected for terms of ten years by the people of the twenty-four Municipal Court districts into which the city is divided. Each justice has charge over civil cases arising within his district which involve \$500 or less. (2) The Court of Special Sessions consists of fifteen justices appointed by the Mayor for ten years, and has charge of misdemeanors. In addition to these are many City Magistrates, some of whom are elected, others of whom are appointed, who have charge of less serious offenses.

Coroners' Courts.—In every county there are from one to four Coroners elected by the people for three years, whose duty it is to investigate all unnatural deaths, in order to determine their causes. For this purpose the coroner may call witnesses, and in the largest cities has

to submit the matter to a jury. If, as a result of this "inquest," some one is suspected of crime, such a person may be arrested to await the action of the grand jury.

Board of Claims.—In addition to the regular system of courts there is a special tribunal, called the Board of Claims, consisting of three judges appointed by the Governor, with the consent of the Senate, for the term of ten years, for the purpose of hearing and determining claims of private citizens against the State. The Board sits at Albany, and has eight sessions in the year. It is necessary to have this board because the State as a sovereign body cannot be sued by private individuals. Under these circumstances some arrangement has to be made by which a private citizen, if wronged by the State, can have his wrong righted.

Removal of Judges.—Besides the ordinary method of impeachment, judges may be removed by other means. Judges of the Court of Appeals and of the Supreme Court may be removed by a two-thirds vote of all members elected to each house of the Legislature. All other judicial officers except Justices of the Peace and justices of inferior courts not of record¹ may, on the recommendation of the Governor, be removed by a two-thirds vote of members elected to the Senate. All other minor judges are removable by higher courts.

¹ Courts not of record are those of the Justices of the Peace and other inferior courts. Courts of record are the Court of Appeals, the Supreme Court, the County Courts, and the Surrogates' Courts. The latter are so called and distinguished from the former because they have clerks who make detailed reports of the proceedings.

Character of Our Judges.—During a period following the Civil War our judiciary degenerated very much, and for a long time was under the control of political machines. In recent years, however, it has reached a high standard of excellence.

Length of the Terms of Office of Judges.—We shall have noticed by this time that the terms of office for judges are very much longer than those for officers in the legislative and executive departments. For this there is a very good reason. The office of a judge should be above party politics. Once in office the judge should be free to devote his attention to giving just decisions. If his term of office were short and elections came frequently he would have to give a great deal of time and thought to reelection. In order to gain reelection he would be sorely tempted to render decisions in important cases in favor of the person who might be in a position to give him the most assistance in the election. If justice is to exist, a judge must not have such temptations put before him. There are those who believe that our judges should not be elected at all, but should be appointed by the Governor, who is better capable of selecting a good judge than the average voter. Once in office they would stay in during good behavior. This, you will remember, is the way the Federal judges obtain and hold their offices. It certainly takes the judicial department out of politics.

Reelection by Custom.—Though we do elect our judges in this State, and give them only definite terms of office, there is growing up a very noble custom which practically

gives a judge the same office during good behavior. That is, if a judge fills his office impartially and well, it is becoming more and more the custom for both political parties to nominate him on their tickets, and thus to reelect him term after term. The lawyers of the State believe most firmly in this custom, for they, above all others, realize how necessary it is to have impartial and honest judges to try their cases.

Salaries.—If we wish good judges we must give them long terms of office (really terms of office during good behavior) and good salaries. In our State some of the judges are much better paid than Federal judges. This does not mean that we should lower their salaries, for to get good men we must pay them well, but rather that the Federal government should raise the salaries of its judges. The judges of our Court of Appeals receive \$13,700 a year, which is nearly as large as the amount received by the judges of the Supreme Court of the United States. The judges of our State Supreme Court chosen from districts in New York and Kings Counties receive \$17,500 a year, and those from other districts receive \$10,000. The highest paid Federal judge receives only \$15,000.

The "Law's Delay."—The "law's delay" is an expression which we are coming to hear more and more. It means that when a civil or criminal case gets into our courts it takes a very long time to get a decision. Business men sometimes prefer to suffer a loss at the hands of others rather than go to court, because they feel that it will take such a long time to have the matter settled.

Then the expenses to which they are put in fees for the courts and the lawyers are sometimes as great if not greater than the amount recovered. The blame for this state of affairs rests partly on our judges, partly on our lawyers, and partly on our legislators. The accusation has been frequently made of late, and not without some foundation of truth, that our judges take vacations of too great length. They thus have too little time to devote to trying cases, and these keep accumulating in such numbers that it is sometimes a year or two after a case is brought before a court before it actually comes to trial. Judges are also accused of encouraging delays in the administration of justice, but this seems hardly possible. It is on the lawyers that we must place the responsibility for the many delays in having cases settled. Some of these men seem to do everything in their power by means of petty quibbles and makeshifts to prevent cases from coming to a definite trial. This is especially true of the lawyer whose client has a weak case. If the decision goes against him he is permitted to appeal again and again to higher and higher courts. Several years drag along, and it is not surprising that the average citizen becomes disgusted. It frequently seems to him as if the man who had the money to keep a case in the courts a long time wins out. Criminals are sometimes not punished until years after the commission of the crime. This breeds a sort of contempt among the people for the law and the courts. This is the worst thing of all, for the law and courts, above all, should always be respected and obeyed. The Legislature is to blame, because it is within its power to change the court procedure in such a way as to stop all the petty legal quibbles and prevent the possibility of so

many delays and appeals. This the Legislature has not done, and it has not done it because the voters do not seem to want it. So here in the judicial department we are again down to the voter, as we found ourselves in the legislative and executive departments. If there are delays in the administration of justice it is the voter's fault. It is for him to remedy the evil.

SUGGESTIVE QUESTIONS.

1. In what Judicial Department do you live? In what Supreme Court District?
2. Who is the Judge of the Supreme Court chosen from your district?
3. Who is the Justice of the Peace before whom a small criminal offense committed in your neighborhood would be tried? Police Justice? Municipal Court Justice? Justice of the Court of Special Sessions?
4. Where is your County Court House? What other courts are held there beside the County Court?
5. Give reasons for and against the election of judges.
6. Subject for debate: Should judges hold office during good behavior or for a specified term of years?
7. Find instances of the "law's delay." Do you know of any States in which it is not a great evil? Do you see any connection between it and "lynchings"?

CHAPTER VII.

THE WORKING OF THE COURTS.

Rules of Procedure.—Just as there are certain rules and regulations for conducting the business of law-making in our Legislature, so there are certain rules for conducting business in our courts—known as rules of procedure. In the last chapter we saw how some delays in getting decisions were to be attributed to faulty procedure, and now we are to find out how court business is carried on.

Kinds of Cases.—Every case which comes before a court is either a “civil” or a “criminal” case, and in every case there is a “plaintiff” who begins the action, and a defendant against whom the suit is brought.

Civil Case.—A case between two private individuals for the purpose of having justice done is a civil case. The plaintiff who feels that a wrong has been done him by the defendant brings suit. If the plaintiff does not bring the action no one else will, for it is not supposed to be anybody else’s concern. The most common forms of civil cases are those in which the plaintiff brings suit against the defendant to compel the payment of a debt or the fulfillment of a contract.

Criminal Case.—In the early history of mankind all

cases were what we might call civil cases, that is, between one man and another, or between two different families. If one man did bodily injury to another it was settled between them or between their families. Nobody else had anything to say. With the growth of civilization, however, and an increase in the power of the king, there were certain wrongs, such as murder, arson, burglary, theft, and robbery, which came to be regarded as affecting not only the individuals against whom they were committed, but as affecting all the people in the State. Such wrongs were called crimes, and the State felt called upon to do everything in its power to punish the criminal, whether the person against whom they were committed took any action in the matter or not. At first the number of wrongs which were considered crimes was small, but it has increased very much, and the Legislature may at any time pass a law making certain acts crimes. When a case involving a crime comes before a court it is called a criminal case, and the State is the plaintiff.

The Complaint.—In every criminal case the first step is the “complaint.” This may be made by the person injured, and must be made by any policeman, sheriff, justice of the peace, or district attorney who has knowledge of the crime. In form it is an accusation made before some judicial officer against some particular person, charging him with some specific wrongdoing. It must be supported by the oath of a responsible person to the effect that he regards the accused as guilty. Anybody making the complaint for mischievous or malicious purposes, and without sufficient grounds, is liable to punishment.

Warrant of Arrest.—On the basis of the complaint a warrant of arrest is issued by the justice. This is then handed over to an officer who tries to find the criminal. The complaint and the warrant of arrest may be temporarily dispensed with, however, if the accused is caught in the act, or if there is not sufficient time to get them. As soon, however, as the criminal is brought before the justice they must be duly made out.

The Examination.—When the prisoner is brought before the justice it is first determined whether the latter has jurisdiction or not. If he has, he may try the case immediately. If not, he may examine the prisoner as to his connection with the crime. In this examination the prisoner is not bound to answer any questions which might serve to incriminate him. If from the examination of prisoner and witnesses there is sufficient evidence to point to the accused as guilty, he is committed to jail for trial by a higher court, or is held to await the action of the grand jury; otherwise he is discharged. The prisoner may, however, “waive examination,” that is, ask to be committed to jail to await examination at some future time.

Bail.—When the offense is not murder or some infamous crime the magistrate before whom the examination is conducted may, instead of sending the prisoner to jail, release him on “bail.” This means that certain people, usually the friends of the prisoner, sign a “bail bond,” agreeing to forfeit a certain amount of money if the accused does not put in an appearance in court at the time set for his trial. Even if he fails to do so and the

bail money is forfeited to the State, the accused may again be arrested and held for the same offense.

The Grand Jury.—When the crime committed is infamous, that is, one involving the death penalty, imprisonment in the penitentiary, or the loss of civil or political privileges, the prisoner cannot be brought to trial for it except on presentment or indictment by the grand jury. In other words, in such serious cases the ordinary complaint is not sufficient; the accusation must be made by a body of men. In every county when a trial term of the Supreme Court is to be held there is a body of twenty-four men chosen by lot from among the taxpayers. (In New York County there are thirty-six chosen. In the same county and in Kings the members have to own a small amount of property, but they do not have to be taxpayers.) This body is known as the “grand jury.” Its duty is to inquire into the crimes which have been committed in the county. In order to assist it there is in every county a District Attorney or public prosecutor. This officer is chosen for a certain number of years by the voters of the county; it is his duty to get evidence in regard to crimes and to present it to the grand jury for consideration. When considering the evidence in any one particular case not more than twenty-three nor less than sixteen grand jurymen are allowed to sit. The meetings are secret, but the District Attorney may appear before it, and also such witnesses as it may call. It takes at least twelve affirmative votes to make an indictment or presentment. On this matter the procedure is the same as in the Federal Grand Jury. (See p. 267 of “Government in State and Nation.”)

Arraignment and Plea.—If indicted, the accused is brought into court to stand trial. While on trial he enjoys all the “rights of the accused.” The indictment is read to him. This is called the arraignment. He is then asked if he is guilty. To this he makes a “plea” “Guilty” or “Not guilty.” If the first, the judge sentences the prisoner to the punishment set by law for the crime, but if the accused replies “Not guilty,” he is tried by jury. In a case of murder the jury trial cannot be dispensed with even though the accused plead “Guilty.” So in such cases the plea is always, to all intents and purposes, “Not guilty.”

Selection of a Jury.—In every county when a trial term of the Supreme Court is to be held there is a list of thirty-six men whose names are chosen by lot from among the taxpayers (in New York and Kings the same exception holds as in the case of the grand jury) of the county who are between the ages of twenty-one and seventy. (Many classes of persons, however, such as public officials, ministers, school teachers, etc., are excused from jury duty.) The persons thus selected or impaneled are known as the “petit jury” for that term of the court. They constitute the “panel” from which the “trial jury” is drawn.

Trial Jury.—When a case is about to be tried, twelve names are drawn from a box in which the names of the thirty-six petit jurymen have been placed on different slips of paper. The accused or the prosecutor may object to certain of the men chosen, on the grounds that they

are prejudiced one way or the other. A chosen juror may himself object to serving on the trial because of certain beliefs which he has. If the judge thinks the reasons good and sufficient he excuses the juror from serving. Sometimes the panel is exhausted before twelve names are accepted, and more petit jurors have to be impaneled. At times prejudice is so great that an impartial jury cannot be had in the county, and then a jury is drawn from another county or the trial itself removed there. When twelve jurors have been accepted the trial jury is complete and ready for the proceedings.

Parties and Steps in a Trial.—The accused is always considered innocent, and is given every opportunity, even to having a lawyer or counsel employed by the county for his defense. The burden of proving the accused guilty rests on the District Attorney. He conducts the side known as the “prosecution,” while the side of the accused is known as the “defense.” Both sides may have witnesses “subpœnaed” by the court, that is, orders sent to certain individuals to appear and testify. The prosecution, represented by the District Attorney, opens proceedings by declaring the reasons for believing the accused guilty. The witnesses for the prosecution are then called to the stand. Each is subjected to “direct examination” in order to bring out the facts showing the guilt of the prisoner, and each in turn is then subjected to “cross-examination” by the attorney for the defense, for the purpose of showing inconsistencies or flaws in their statements. The witnesses for the defense are then called, their testimony is taken by direct examination by the attorney for the defendant, and they are then

cross-examined by the prosecution. During the course of the trial all "questions of fact" in regard to the crime are left to the decision of the jury. Points involving the interpretation of the laws, the admission of certain kinds of testimony, or the excusing of jurors are left to the judge. If the decisions of the latter are displeasing to the attorney for one side or the other in the trial he may file "exceptions" to them. At the close of the trial the attorney for the defeated side may gather these exceptions into a "bill of exceptions." He may then take this bill before a higher court and argue that a new trial should be ordered because of the wrong decisions of the judge.

When the testimony is all in, the attorney for the defense delivers his "summing up" of all the evidence which goes to show that the accused is not guilty, and the District Attorney follows him with a summing up of all the facts pointing to the guilt of the defendant. The judge then delivers the "charge" to the jury, showing them clearly how the law applies to the case in hand, but being careful not to influence the jury in any way as to how they shall find in regard to the facts.

The jury then retires to a private room, where it remains until it decides unanimously to bring in a "verdict" of guilty or not guilty, or announces that it fails to agree. In the last case a new trial is ordered before a new jury. If the prisoner is declared not guilty, he is discharged; if he is declared guilty, the judge pronounces "sentence," that is, declares the penalty which the criminal will have to suffer for his crime. This may be pronounced immediately, but it is usually not done until after the lapse of a few days. After this it is the duty of

the sheriff of the county to see that the sentence is carried out.

Procedure in Civil Cases.—So far we have dealt with criminal procedure. In a civil case it is somewhat different. Here the plaintiff gets the court, before which the action is triable, to send a “summons” to the defendant, citing him to appear within a certain time and at a specified court to answer the “complaint” which the plaintiff has made against him. If the defendant fails to answer, judgment will be entered against him, and it is the duty of the sheriff to see that the judgment is carried out or executed. If the defendant files an answer to the complaint, a trial is then begun to determine who has right on his side. The steps in the trial are then much the same as in a criminal case. The plaintiff takes the place of the prosecution, and the defendant of the defense.

Appeals.—Either party in a criminal or a civil case may appeal to a higher court if he thinks that the verdict is not in accord with the testimony, or if he feels that the judge has made some wrong rulings on points of law. The one who appeals is called the “appellant,” and he presents all the data and arguments before the higher court for the purpose of getting the verdict reversed and having the case sent back to the lower court for a new trial; or he may even contend that the lower court did not have jurisdiction, that is, power to try the case, and ask to have it tried before a higher court. The court appealed to may dismiss the appeal, and in that case the verdict of the lower court stands. Under certain conditions, how-

ever, the appeal may be carried higher than the first court appealed to, and may thus go on up to the Court of Appeals, and finally to the Supreme Court of the United States.

Complications in Procedure.—From this sketch of procedure in trials we can see how many delays can occur in the trial of an ordinary case. When lawyers wish to pursue a policy of obstruction and the judges are careless, weeks may be consumed in trying to get a jury. After one is found and the trial proceeds, it is frequently impossible to get the unanimous decision of twelve men. If just one man out of the twelve fails to agree the whole case must be tried over again, and so it may be tried again and again until the parties are wearied and give up the suit. Even after a verdict is obtained the defeated party may appeal to a higher court on some technical exception to a ruling of the lower court. The judge in the lower court and the judge in the higher court may both be excellent judges, but there is always room for honest differences of opinion about the small technicalities of the law, and so the higher judge may reverse the decision of the lower judge and order a new trial. Even if he refuses to do this, an appeal may be carried to still higher and higher courts. It is not surprising, therefore, to find that a case comes out of the courts some two or three years after it is started.

Defects of the Jury System.—The question has sometimes been asked whether a system under which cases would be heard and decided by a bench of several judges would not be more satisfactory than our present jury

system. It cannot be denied that the administration of justice by means of a jury is often very faulty. One of the reasons for this is found in the difficulty of securing men who are thoroughly qualified to serve as jurors. Several difficulties may be noticed: (1) In the first place, a great number of intelligent men are exempt from jury duty. (2) Then, too, the power of preparing the lists from which petit jurors are drawn is often placed with local officers who exercise it corruptly; men are chosen for political reasons, or under the influence of powerful attorneys or the parties to important suits. (3) Again, the most intelligent men on the list of petit jurors may be excluded from the trial jury of an important case on the ground that they have formed their opinion of the matter to be tried. (4) Attorneys are allowed to "challenge," either with or without the statement of a cause or reason, the men whom they do not wish to see on the jury for a certain case. This serves to protect their clients against jurors who are prejudiced; it is also a means of so constituting juries that they may be easily influenced by skillful attorneys. (5) Finally, justice is sometimes defeated by the downright bribery of jurors—a crime of the most serious nature.

In enumerating the reasons why jurors are sometimes incompetent, it must be said that too often the most capable men shirk jury duty; they begrudge the sacrifice of time that it involves, and they give both good and poor reasons why they should be excused from jury service. Thus are made possible many of the evils that we have noticed in the selection of jurymen.

Advantages of the Jury System.—In spite of the many

faults that appear in the workings of the jury system, its place in our government is stable, for it is founded upon important principles. Some arguments in its favor may be mentioned: (1) This system insures publicity in the proceedings of trials, and publicity is always a deadly enemy of bad government. (2) Again, juries decide the "facts" in suits at law, while the judge decides points of law. In the performance of their duty, then, the jury must exercise that "common sense" which is at the foundation of all justice. The plain judgment of one's equals, though it may err in some cases, is, "in the long run," a safer guide than the judgment of any individual or any class. This idea is fundamental in a democracy.¹

Necessity for Reform.—Our State has become more or less noted for the tardiness of its justice. Other States have no better judges and no better lawyers than ours, but their justice seems to be surer and quicker. This is due in a measure to better rules of procedure. In some States they have abolished the requirement of a unanimous decision of a jury for a conviction; they have stopped the dilly-dallying in the selection of jurors, and they have made it impossible to take so many appeals. Speedy justice has been given in both criminal and civil cases, and the public has a great respect for the courts.

With us the feeling seems to be growing that criminals too frequently escape the infliction of the penalty of their crime for a long time or altogether, and that dishonest men cannot be brought to justice because the injured are unwilling to take up a civil case which can-

¹ The paragraphs on the defects and advantages of the jury system are quoted from the complete edition of "Our Government," pp. 234 and 235.

not be settled for years. Our judicial procedure seems to be arranged to shield the criminal and the wrong-doer rather than to bring him to justice. The general public is over-humane in its treatment of him, and does not seem to realize that such an attitude is really to the injury of all the people by causing an increase in crime. As long, therefore, as the public and the voters do not seem to care whether it takes three weeks or three years to settle criminal and civil cases, just so long will our judicial procedure be faulty. In the end everything rests with the voters. If they sincerely wish an improvement they will have it.

SUGGESTIVE QUESTIONS.

1. The processes described in connection with trials can best be understood by the use of legal blanks which may be obtained from lawyers, local officers, or printing offices. The class should have blank forms for "complaints," "summons," "warrant for arrest," "subpœna."
2. What is the meaning of the words "petit" and "grand" used in connection with juries?
3. Do lawyers favor the abolition or modification of our jury system?
4. What is the attitude of citizens of your acquaintance toward jury service?
5. How do you account for the conflicting testimony given by witnesses in trials?
6. Look up the origin of the petit and grand juries in some English history.
7. In what way did the early English petit jury differ from that of the present day? Do you see a reason for having a unanimous decision of twelve men in the early days of the petit jury which does not exist with our jury system as it is to-day?

CHAPTER VIII.

LOCAL GOVERNMENT: COUNTY, TOWN AND VILLAGE.

Introductory.—So far we have concerned ourselves mainly with the central government of the State, and excepting the judicial department, said very little about the local government. In the case of the judiciary we found it necessary to study the local courts in connection with the central courts because they were so closely bound together that one could not be made clear without a study of the other. The same is not true of the local legislative and executive bodies except to a small extent. So we have reserved the study of these for a special chapter.

Divisions of the State.—New York State is divided into sixty-one counties. Each one of these is divided into districts known as “townships” or “towns.” The word town is sometimes used loosely to mean any considerable group of dwelling houses, but the accurate meaning of the word is that which we have given it above. In the town there may be only scattered farmhouses, or there may be one or several “villages,” each with a circumscribed area over which the officers of the village exercise a certain control. A whole town, or several towns, or even a whole county may be covered by the dwellings of a “city.” When this is the case much of the local organ-

ization of the county and town is superseded by a special government provided for in a "city charter." In all of these local units, county, town, village, city, there are the three departments of government—the legislative, executive, and judicial—just as there are in the central government of the State.¹

The County.—The legislative department of the county is known as the Board of Supervisors. It consists of one supervisor for each town and each ward in a city elected every two years by the voters of such districts. The duties of the board are specified by the State Legislature. The most important are to raise money, to provide for the building of roads, bridges, and county buildings, and to care for the public property of the county.

The executive department consists of the following officials elected for three years: (1) The Sheriff, whose duty it is to preserve order, execute judicial orders, and be responsible for criminals confined in the county jail. (2) The County Clerk, whose duty it is to keep the public records, record all deeds and mortgages, and act as clerk of the Supreme and County courts. (3) The County Treasurer, whose duty it is to take charge of county moneys, and to keep an account of receipts and expenditures. (4) The District Attorney to prosecute criminals, give legal advice to other county officers and the grand jury, and to act as attorney for the county in suits brought by or against it. (5) The Superintendents of the Poor. There may be from one to three of these chosen by the Board of Supervisors. Their duties are to have charge

¹An examination of Richmond County in the map of New York City will show the old town boundaries within it like those of Middletown, etc., opp. p. 74.

of the poorhouse and the poor. (6) The District Superintendents of Schools. Every county has one or more of these officials, according to the number of school supervisory districts it comprises. Each is elected by the school directors chosen in the towns of his district and has charge of the schools in it.

The county judiciary, consisting of the County Judge, the Surrogate, and the Coroner, has already been dealt with in the chapter on the judiciary, and does not need repetition here.

The Town.—The town legislative department known as the Town Meeting consists of all the voters in the town. This meets regularly every two years unless called together more frequently at the request of twenty-five voters or of the town officers. Its duties are to elect town officers, to stop public nuisances, to care for the property of the town, and to raise and appropriate money for its needs.

The town executive officers elected by the Town Meeting for two years are: (1) The Supervisor, who manages the finances and represents the town in the county legislative department; (2) the Town Clerk, who keeps the town records; (3) the Collector, who collects taxes; (4) three Assessors, who place a value on property for purposes of taxation; (5) from one to three Commissioners of Highways, who have charge of roads and bridges; (6) one or two Overseers of the Poor, who have charge of the poor; (7) not more than five Constables, who preserve order and execute the orders of the Justices of the Peace; (8) four Inspectors of Election, who preside at town elections and receive and count the ballots. The Supervisor, Town Clerk, the Justices of the Peace, or any

two of the justices form the "Town Board," whose duty it is to audit the accounts of town officers and claims against the town.

The town judiciary consists of four Justices of the Peace, about whom we have spoken in the chapter on the judiciary of the State.

The Village.—In parts of a town or sometimes covering a whole town there are thickly populated districts which have special needs beyond those taken care of by the town government. These call for a considerable outlay of money. Those who live in the town, but not in the village, are naturally unwilling to vote for expenditures from which they derive no benefit. Those living in the village, on the other hand, desire larger powers of taxation and certain powers of incurring debt which the town does not have. To take care of these special needs a village government is incorporated under a general law of the State Legislature. Though the village has a government of its own with separate officers, it is still a part of the town. Those who live in the village may vote in the Town Meeting, help elect the town officers, and share all the burdens and benefits of town government. The villager, however, has his village duties as well as those of the town.

Classes of Villages.—The villages in New York State are divided into four classes: (1) Those having a population of 5,000 or more; (2) those having a population of from 3,000 to 5,000; (3) those from 1,000 to 3,000; (4) those under 1,000. For each one of these classes the State Legislature has passed laws relating to the details of government.

Incorporation of a Village.—When a community has reached the population required it may ask to be incorporated as a village. This may be done by twenty-five freeholders in a territory not exceeding one square mile, or an entire town containing a population not less than two hundred, making application to the supervisor of the town. The supervisor may then call for a vote of the taxpayers living within the area specified, and if a majority desire incorporation, a certificate to that effect is filed with the County Clerk and the Secretary of State, and a village government is set up.

Village Government.—The legislative department of the village is known as the Board of Trustees. This consists of the Village President and from two to eight other members, all of whom must be taxpayers, elected by the qualified voters for a term of two years. The duty of this board is to make by-laws for the government of the village, to raise and appropriate money, to maintain water-works, sewers, sidewalks, streets, police and fire departments, to regulate markets and street lighting, and to audit all accounts and claims against the village.

The executive department consists of officers who are usually elected by the qualified voters for one year: (1) The Village President, who sees that the by-laws are enforced and has general charge of village affairs; (2) the Treasurer, who receives and pays out the village money; (3) the Clerk, who keeps the village records and the proceedings of the Board of Trustees; (4) three Assessors, who place a value on property for purposes of taxation; (5) the Collector, who collects taxes; (6) a Street Commissioner; (7) a Fire Commissioner; (8) a Water Com-

missioner; (9) a Light Commissioner, whose duties are obvious from their titles.

A village need not necessarily have all of these officers, or it may have others such as Sewer Commissioners and Cemetery Commissioners; but every village must have a Board of Health consisting of from three to seven members appointed by the Board of Trustees.

The judicial department of the village consists of a Police Justice elected for four years. He tries minor criminal offenses and violations of the village by-laws.

Character of Local Government.—In the government of our counties, towns, and villages we have been very successful. They are forms of government with which our English ancestors had been familiar for centuries. The population in these local districts is not too large to be unwieldy. In the government there is no fine system of checks and balances. All the departments of government work harmoniously and smoothly. Then, again, the governments of these local units are conducted on a strictly business basis. Most of the people concerned are property holders, and are therefore interested in having the governments run on an economical basis. Everyone takes a direct interest in the government. If there is any corruption, and taxes increase, the property owner feels it immediately and wishes to know the reason why. In the villages the voter who does not pay direct taxes cannot vote on a question involving the expenditure of money. Thus what is to be spent is directly in the hands of those who are most interested in seeing corruption kept out and expenses kept down. Having a feeling of ownership in the district, they have a pride in seeing it well managed.

Good and efficient officers are elected year after year regardless of party politics. They are regarded like the officers of a large business company, and are kept in office as long as their services are good.

Faults of Local Government.—Unfortunately the above remarks are not true of all counties, towns, and villages. In some of them during recent years there has been growing up a considerable population of non-property holders. Except in the villages these have the same rights as owners of property, and even in the villages they have the right to vote for village officers. Having no direct interest by a feeling of part ownership they vote for bad officers and for the expenditure and borrowing of large sums of money. There is now, however, a provision in the State Constitution restricting the expenditures of counties, towns, and villages, and the amount of money they can borrow. This is a good provision, but it does not do away with the evil which threatens to undermine the good qualities of our local governments. This evil lies in giving to everybody, whether he has any property interests or not, the privilege of voting on matters in which he has no real ownership. This makes him careless of the way he votes, for he does not care so long as he thinks that he does not have to bear the burden of heavy taxation. The property owners, feeling that they will be out-voted, do not attend the town meetings, but stay at home and object to the heavy taxes that they have to pay. They scarcely deserve sympathy for taking such an attitude.

Remedies for the Faults.—To keep our local government up to its old standard of excellence one of two steps

seems necessary. Either the voting power must be given only to those who have property and pay direct taxes, or, if all are to be allowed to vote, then they must be made to realize by education that increased taxation bears just as heavily on those who do not pay direct taxes as on those who do. This will be clear, if you will remember that all of us have to live in some dwelling. If we do not own it we have to pay rent. If direct taxes are increased the landlord is not going to bear all the burden, but makes us bear our share of it by increasing the rent. In the same way we bear our portion in the increased prices of the things we buy. If every voter realized this thoroughly he would not be so ready to vote for heavy expenditures. The difficulty of making him realize it is so great that some think it would be best to put the power of voting, in local governments at least, solely in the hands of those who pay direct taxes. The better way, of course, would be to have every voter well enough educated to vote intelligently and to realize that he as well as the direct taxpayer is interested in seeing the government run well and economically.

SUGGESTIVE QUESTIONS.

1. Find out the names of the men who are holding the offices in your county, town, and village governments.
2. When the privilege of voting has once been given is it an easy matter to take it away? Who has the power to change the qualifications for the privilege of voting in our local governments?

CHAPTER IX.

LOCAL GOVERNMENT: CITIES.

Definition and Origin of Cities.—The city is in reality a large village. It may cover one town or several towns, one county or several counties. Cities existed in New York before there were incorporated villages. In England cities, under the name of boroughs, grew out of villages. Just as a village on account of its population needed a different form of government from that of the town, so a city on account of its larger population needed a different form of government from that of a village. When a village is incorporated the town government remains, but when a city is incorporated the town government ceases to exist.

Number of Cities.—Population centers in certain districts largely because of manufacturing and commercial advantages which they have. Though there were four cities in New York before 1800, it was during the nineteenth century, when manufactures and commerce grew with such great rapidity, that the number of cities was increased to forty.

Classification of Cities.—In this State the cities are divided into three classes: (1) Those which have a population of 175,000 or more—New York City, Buffalo, and Rochester; (2) those which have from 50,000 to 175,000—

Albany, Syracuse, Troy, Yonkers, Utica, and Schenectady;
(3) those which have less than 50,000.

General and Special Laws.—The classification of cities was largely made for the convenience of the Legislature in making laws affecting cities, and in granting charters incorporating them. Many evils had arisen from the Legislature's enacting special laws affecting only certain cities, and there was placed in the present State Constitution a clause restricting the Legislature in this matter. The Legislature may pass general laws affecting the cities of one or more classes, but if it enacts a special law affecting a special city or cities, such law is subject to veto by the mayor of cities of the first class, and by the mayor and legislative body of cities of all other classes. The Legislature may, however, repass the law over the veto, and it then goes to the Governor.

Charters.—Every city when it is incorporated receives a charter or body of rules from the Legislature. In the case of cities of the second class the Legislature has attempted to make a uniform charter, but in the case of all other cities it has granted a special charter of incorporation to each. Thus there are but a few cities in the State that have exactly the same government. They all differ in details, but are all alike in having the three departments of government—legislative, executive, and judicial—described in the chapter on cities in the first part of this volume.

Mistakes of City Charters.—In drawing up the city charters our legislators early made the mistake of look-

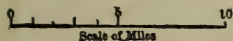
ing upon the city government as they did on the National and State governments. They thought that all the checks and balances to be found in those should be put in city government. No one officer should be given much power, but it should be divided among several. They did not seem to realize that such division of power was not so necessary in a city government as it was in the National government. Their model, instead of being the National government, should have been a large business company or corporation. Their objects should have been not to have checks and balances, but to have the city government working as smoothly as possible. Greater power and responsibility should have been given to each officer, so that if anything went wrong the voters would have been able to pick out immediately the official whose fault it was. But where nothing could be done unless several different officials or departments gave their consent to it, if anything went wrong each would put the blame on the others, and the voter would not be able to find out just which one was responsible. Instead of serving as a check on each other they all served as shields to corrupt action. Under the circumstances a great deal of crookedness went on, and the voter could not discover where it was.

Old and New Charters.—Such was the state of affairs when the celebrated Tweed Ring ruled New York City from 1869 to 1871. After its overthrow the best citizens saw that great changes would have to be made in the government of the cities if corruption was to be kept out. From that time to the present day, therefore, they have been working for changes along certain lines. These

have been: (1) to give a great deal of power, and therefore responsibility, to the Mayor, by putting into his hands the appointment of almost all the heads of the important administrative departments, and making him responsible for them; (2) to increase the length of the term of office of the Mayor so that he may have ample time to work out the problems of city government; (3) to put all minor city employees on a reformed civil-service basis, and thus remove from them the temptations of corrupt party politics; (4) to abolish the system of two houses in the city legislature and to have only one house; (5) to take away many of the powers of the one legislative house left, and to put such into the hands of a few officials; (6) to give to the cities far larger powers over their own local affairs and subject them less to the control and interference of the State Legislature. How much has been accomplished along these lines is to be seen best from a comparison of the government of Buffalo, which in a measure represents the old form, with that of New York City, which represents the new.

New York City.—The last charter of this city, passed in 1901, and with the amendments made to it in that and subsequent years, forms a good-sized book. It contains 209 large pages. Like all charters, it opens with a definition of the boundaries. New York City covers the counties of New York, Richmond, Kings, and Queens, a total area of nearly 327 square miles, and has a population of nearly 5,000,000. For the purposes of administration, election of officers, etc., the territory is divided into 5 boroughs, 66 wards, and 73 aldermanic districts.

Map of
NEW YORK CITY
 SHOWING ITS FIVE BOROUGHES,
MANHATTAN, THE BRONX,
BROOKLYN, QUEENS
 and **RICHMOND**



Legislative Branch.—The legislative branch of the city government consists of one house, called the Board of Aldermen, the second house known as the Council having been abolished. In this body there are seventy-three aldermen—one elected from each aldermanic district, the President of the Board—elected by the city at large, and five Borough Presidents—one elected from each borough, making a total of seventy-nine members. The aldermen hold office for two years. They elect the City Clerk, who holds office for six years and keeps the record of proceedings. The powers of this board are such as ordinarily belong to the Board of Trustees of a village. They include the making of municipal ordinances concerning the conduct of the citizens, the appropriation and borrowing of money, and the fixing of certain salaries. The Mayor may veto any measure passed by the board, and it can be passed over his veto only by a two-thirds vote for ordinary bills, and a three-fourths vote, if the measure is one involving taxes and expenditures. The character of the men chosen to the Board of Aldermen has not always and uniformly been of the best, and the Legislature of the State has shown a tendency to reduce its powers more and more. In matters of finance it can practically do nothing in the way of increasing expenses without the consent of the Board of Estimate and Apportionment, but the latter can in many cases appropriate money without the consent of the Board of Aldermen. One of the recent acts of the State Legislature has been to take away from the Board of Aldermen the power over franchises, and to place this in the hands of the Board of Estimate and Apportionment. Many citizens are now urging the abolition of the Board of Aldermen altogether, as a body

which has outlived its usefulness. They hope to have its powers given to a smaller and more responsible board elected at large and not by districts.

The Executive Branch.—At the head of the executive branch of the city government stands the Mayor. The Mayor holds office for four years. To assist him and be directly responsible to him in carrying out the duties which he has to perform the Mayor appoints: (1) The Corporation Counsel, who gives legal advice to the city officials and attends to suits brought by and against the city; (2) the Commissioner of Police; (3) the Commissioner of Water Supply, Gas, and Electricity; (4) the Commissioner of Street Cleaning; (5) the Commissioner of Bridges; (6) three Commissioners of Parks; (7) Commissioner of Public Charities; (8) Commissioner of Correction; (9) Fire Commissioner; (10) Commissioner of Docks and Ferries; (11) five Commissioners of Taxes and Assessments; (12) forty-six members of the Board of Education, appointed for five years, which in turn appoints the City Superintendent of Schools and other Associate Superintendents. These form the Board of Superintendents, and in its hands is placed the actual running of the schools of the city, though the Board of Education has it within its power to overrule it. The Board of Education also appoints a Superintendent of School Buildings, a Superintendent of Supplies, and a Supervisor of Lectures; (13) Commissioner of Health; (14) Tenement House Commissioner; (15) Commissioners of Accounts; (16) Municipal Civil Service Commissioners. With the exception of the members of the Board of Education, all of these officers are

absolutely responsible to the Mayor and are removable by him.

Finance Department of the Executive.—The finance department of the city executive is not controlled by the Mayor. It consists of the following officers: (1) The Comptroller, elected for four years by the whole city and having supervision over all matters pertaining to receipts and payments of money, and debts contracted by the city; (2) the Chamberlain, appointed by the Mayor and having custody of the city funds—his duties are the usual duties of a Treasurer; (3) four Commissioners of the Sinking Fund, who are the Mayor, the Chamberlain, the President of the Board of Aldermen, and the Chairman of the Finance Committee of the Board of Aldermen. The principal duty of this commission is to see that proper provision is made for the payment of the city debt; (4) the Board of Estimate and Apportionment, consisting of the Mayor, the Comptroller, the President of the Board of Aldermen, and the five Borough Presidents. In the hands of this small board practically rests the control of all expenditures of the city funds. It estimates the expenses for the coming year and apportions the funds among the various departments, which all submit estimates for this purpose. The Board of Aldermen may *decrease*, but it may not *increase* the estimates thus made and submitted by the Board of Estimate and Apportionment. The amount of debts which the city may contract is limited by the Constitution.

Judicial Branch.—Besides a special arrangement of the County Court, which exists for New York County, and the regular county system of courts for the other

counties in New York City, there are the Municipal Court, the Court of Special Sessions, and the City Magistrates. These have been described in the chapter on the judiciary of the State, but there is to be noted about them the power of appointment which the Mayor has in the case of the Justices of the Court of Special Sessions and in that of some of the City Magistrates.

Boroughs.—New York City is so large that it is divided into five boroughs—Manhattan, the Bronx, Brooklyn, Queens, and Richmond—for the purposes of more effective administration in those localities. The voters of each of these choose every four years a Borough President. His most important duties are those relating to local improvements in his borough. These include the grading, curbing and guttering of streets, the construction, repairs and cleaning of the sewers and of certain public buildings, the erection and care of public baths, and the placing of street signs. He appoints (1) the Commissioner of Public Works and (2) the Superintendent of Buildings within his borough. He is the head of the Local Improvement Boards, which consist of himself and the aldermen of the aldermanic districts lying within each of the Local Improvement districts into which the borough is divided.

The City of Buffalo.—Buffalo, in Erie County, has a population of over 400,000 and an area of about forty-two square miles. For purposes of administration and election of officers it is divided into twenty-seven wards.

The Legislative Branch.—The legislative branch of the Buffalo city government is of the old type and has two houses: (1) A Board of Councilmen, nine members

elected for four years, and (2) a Board of Aldermen, twenty-seven members elected, one from each ward for two years. They elect a City Clerk. Their powers are much the same in kind, but greater in scope than those now exercised by the Board of Aldermen of New York City. As the assent of both houses is needed for any measure, there is much wrangling between them and much delay.

The Executive Branch.—The Mayor is elected for four years, but he has far less power than the Mayor of New York City. Less than half of the heads of executive departments are appointed by him, the others being elected by the people. In the Department of Finance the Comptroller and the Treasurer, in the Department of Assessment the three Assessors, in the Department of Law the Corporation Council, in the Department of Public Works the Commissioner, in the Department of Education the City Superintendent, and in the Department of the Poor the Overseer, are all elected, and the Mayor has but little control over them. He appoints two Police Commissioners, a Commissioner of Health, three Fire Commissioners, five Park Commissioners, and five Examiners of Public Instruction. The Mayor may for cause remove all city officials with but a few exceptions. It will be noticed how frequently there are several commissioners instead of one in a department. That is the way it used to be in New York City, but now one commissioner is appointed by the Mayor and must accept sole responsibility. Also to be found absent from the Buffalo executive branch is that body which has worked so well in New York City—the Board of Estimate and Apportionment.

Judicial Branch.—In Buffalo the judicial branch of the city government consists of two courts: (1) The City Court—six judges elected for different terms, with both civil and criminal jurisdiction. It is divided into various branches which consider different kinds of cases; (2) The Children's Court—one judge elected for ten years, with jurisdiction in cases of children under sixteen years of age. It is to be noted in contrast how many judicial officials are appointed by the Mayor of New York City.

Cities of the Second Class.—In providing for the government of cities of the second class—Syracuse, Albany, Troy, Yonkers, Utica, and Schenectady—the Legislature followed those lines of development which we have already noted as being followed in the case of New York City. In the legislative branch there is only one house; in the executive branch the Mayor has very large powers of appointment, and there is a Board of Estimate and Apportionment with almost the same powers as that in New York City. Thus has the movement gone on for giving the officials of our cities greater power and greater responsibility. The tendency now is to organize cities like great business corporations, and we may regard this as an excellent sign.

Criticism of Our City Governments.—It is generally conceded that in no form of government have the Americans made a greater failure than in municipal government. In New York State we have in the past failed as much in this form of government as have the people in the cities of other States of the Union. Corruption and incompetence among city employees have been very great,

extravagant expenditures of money have gone on without check, great debts have been incurred, and the State Legislature by special bills has frequently interfered to make matters worse.

Causes for the Evils.—These evils have been due to several causes: (1) Large numbers of foreigners have flocked to our cities. Having the privilege of voting, but not understanding our institutions, they have been led blindly to follow and vote for corrupt men. This must not be emphasized too much, however, because in some of our cities where Americans prevail in numbers there has been just as much corruption. (2) The lack of a property qualification for voting may be given as a second cause. Voters who have no property and do not have to bear the burden of direct taxation are not so careful about voting for extravagant expenditures as are those who have to bear the burden. (3) The educated and well-to-do citizen has been indifferent and has not even gone to the polls to vote because of a feeling that what little good he might do by it would be entirely nullified by the great number of votes of the illiterate class and those who have no interest in seeing expenses kept down and the government well run. (4) The municipal elections have been held at the same time as National and State elections, so that the real city issues have been forgotten and votes cast with only the National and State issues in mind. (5) The city governments have been run in the interests of the great State and National political parties. (6) The State Legislature has constantly interfered in the purely local affairs of the cities and has refused to give them any but a small measure of “home

rule" in such matters. (7) The cities have grown so rapidly in population and area that the expenses incurred for the laying out and paving of new streets and other necessary improvements have all come at once and caused a much larger debt than would otherwise have arisen. (8) The cities have attempted to enforce restrictions against gambling and drinking which would be impossible in even the most successfully governed European cities. (9) Lack of foresight in making provision for public parks when land was cheap has caused heavy expenditures for them when it had grown expensive. (10) The worst evil of all, however, is a moral one. Ordinary business men who are honest in their private affairs have seemed to regard the city treasury and city franchises as proper objects for plunder. They have furthermore disregarded city ordinances and bribed officials to allow them to do so. On their shoulders rests the blame for much of the corruption which has shown itself in our city governments.

Remedies Applied.—(1) The Municipal Civil Service has been very extensively reformed. Minor positions are now given according to the grading received in examinations. The holders of them remain in office year after year, no matter what party may win in the election. Thus positions can no longer be awarded for party services or for the payment of a bribe. (2) Clauses have been placed in the State Constitution limiting the indebtedness of cities, and restrictions placed on the Legislature in passing special acts in regard to cities. (3) The time of holding municipal elections has been placed on a different date from those of the National and State elections,

and in many cities a party has sprung up which interests itself in city affairs alone. This has interested many citizens in city affairs who previously did not care enough about them to vote.

Existing Evils.—In recent years we have made great improvements in the government of our cities in this State. Though we have got rid of many evils, there are others which we should do our best to have done away with. (1) One of these is the tendency on the part of our mayors to appoint party leaders as heads of departments. These men know nothing of the work of their departments and are constantly making serious blunders. To make matters worse the departments do not work together well. Authority over the same thing is frequently divided among several, each one giving orders without reference to what the others are doing. This explains, for example, why it is that sometimes streets are no sooner nicely paved by one department than they are torn up by the orders of another to lay gas pipes, electric-light wires, etc. (2) A second is the almost unlimited privilege of voting. Some reformers think we should do well to put in force the rule which we have in our villages, that is, when questions of taxation and expenditure are involved, only those who are direct taxpayers have the privilege of voting. The institution of a Board of Finance for whom only the direct taxpayers could vote would accomplish this end. (3) A third evil is that we still try to do too much. There are certain moral evils in our cities, such as drinking, gambling, and the like, which we should be much more successful in dealing with if we tried to regulate them rather than to stamp them out. (4) Unrestricted

immigration brings to the cities hordes of foreigners. The city has to undertake the education of these and of their children. This is a great burden on the finances. The National government, which is largely responsible for this condition of affairs, does not bear any of the cost. (5) Hasty extravagance in finance is another evil. Works are undertaken and completed which might well be left to future generations. (6) In one way or another the State Legislature still interferes too much with matters which should be left to the people in the cities themselves to decide. When the cities wish to do something which merely concerns themselves they must first go to Albany to get permission through legislation. (7) Valuable franchises are granted to corporations, and the cities do not receive sufficiently good prices for them. (8) Private citizens and large corporations still violate municipal ordinances, and when called to account buy up or try to buy up the officials whose duty it is to enforce them.

Influence of the Newspapers.—The subject of the cities cannot be left without saying something about the influence for good which our newspapers have had. Corruption and inefficient government are killed by publicity. This the ever-watchful press has given them. The good citizen will always be a reader of the newspapers. Absorbed in business, as the average man is, he has too little time to uncover the schemes of crafty politicians. For this he must rely upon the press, and the faithful reading of it will make him an intelligent voter and citizen.

SUGGESTIVE QUESTIONS.

1. Was the city organized under a general law of the State, or was it granted a special charter? Does the legislature enact special laws for the city?

2. The mayor: term, salary. What are his principal powers? Should his responsibility be increased?
3. The council or board of aldermen: number of members, term of office, manner of election, compensation?
4. The municipal courts and judges.
5. Administrative departments: make a complete list of these. Are they controlled by boards or by single officers? How do the officers obtain their positions? Are they paid salaries? Of what business does each have charge?
6. How are the water, lighting, and street-car plants managed? Do you believe in the municipal ownership of any of them? Give reasons for your opinion.
7. How do police officers receive appointment? If an officer fails to enforce an ordinance, what course would you take to secure its enforcement?
8. Are party lines closely adhered to by voters in city elections? Are independent party organizations formed? Are they successful?
9. What can you learn of reform movements that have taken place in your city's history? Give the causes for the success or failure of these.
10. What is the cost of your city government per annum? Is it economically administered? What are the principal items of expense? Has the city other sources of revenue besides taxation?
11. What are the excellent features of your city's government? What are its faults? How may the latter be corrected?
12. Mention some ways in which students can assist in bringing about better conditions in your city.
13. Consult or obtain the following: (a) City Charter; (b) City Ordinances; (c) Municipal Manual; (d) annual reports of the various departments or boards; (e) printed forms used in the offices of the city clerk, treasurer, and assessors; (f) copy of a declaration of taxable property; (g) tally sheets and records used at the polls; (h) sample ballots; (i) legal notices from the daily newspapers.

CHAPTER X.

NOMINATIONS AND ELECTIONS.

Introduction.—Down to this point in our narrative we have been mainly concerned with an outline of the central and local governments in New York State, and their working. The State has so many activities, and does so much, that we might spend many more chapters in describing the management of the departments of agriculture, of public lands, canals and navigation, and so on, but for our purposes it will be sufficient if we devote this and the following chapters to the treatment of a few selected topics: (1) Nominations and Elections; (2) Local Taxation; (3) State Finance; (4) Education; (5) Amendments to the Constitution.

Importance of Elections.—If all government could be carried on after the style of the Town Meeting we should have very little to say of elections. In some cantons of Switzerland the government is conducted in that way. The citizens all assemble in one place, make known their wishes, and then go to their homes. But such a simple method can exist only where the area of the State and its population are very small. When these have increased very much in size there is no place large enough for the meetings to be held where anyone can make himself heard, and the distance to travel is so great that only the

few who live near the meeting-place can attend. Under such circumstances a method has to be devised by which the ordinary citizen can make his wishes known, and yet not have to attend the meeting himself. He and his neighbors elect a representative to go to the meeting and make known their wishes. That is why elections are important, because through them the ordinary citizen is enabled to take part in the government.

Who Take Part in Elections.—Not all the people who live in the State or district take part in elections, for voting is a privilege and not a right. If those who enjoy the privilege do not see fit to admit others to it there is no legal or peaceable way by which they can be compelled to do so. All people under age, foreigners not naturalized, women, and many others are not allowed the privilege of voting, though they may have the protection of the laws and every other right and privilege that the voter has. Even a man who has had the privilege of voting in one district in the State may not have the same privilege in another district unless he has all the “qualifications for voters” mentioned in Chapter II.

Political Parties.—It has been usual from earliest times for those who held the same ideas on certain questions of government to group themselves together and try to choose their man to run the government to suit them. At first these groups had no organization, but New York State was one of the first in which parties began to have a regular organization with recognized leaders. From our study of history we know that the two first parties after the Revolution were the Federalists and Anti-Fed-

eralists. The latter afterwards took the name of Republicans. After the War of 1812 the Federalists died out, and the Republicans had things all their own way for a time. At the time of Jackson they split into two parts—the Democratic Republicans and the National Republicans. The latter finally took the name of Whigs, and then split up into a large number of different parties on account of the slavery question. Ultimately out of all these grew up a party which called itself the Republican party. The old Democratic Republicans had dropped the latter portion of their name and called themselves Democrats. The new Republican party was victorious in the elections just preceding the Civil War, and ever since that time there have been two chief parties in our State—the Democratic and the Republican. There have been, and there are now, numerous other parties, but of these we have no space to treat.

Organization of a Party.—Parties are, of course, private organizations, and do not form a part of the government of the State. Any expenses to which they may be put are paid for by subscriptions from members. The objects of organized parties are to hold voters of the same political opinions together, to nominate a man for office who will carry out those opinions, and to get him elected. To accomplish the above objects in a State having a large population and a large area requires a somewhat complicated organization of parties. Any group of men desiring to be recognized by our State as a party with the rights of organization must show that they polled at least 10,000 votes at an election at which a Governor was chosen. The business of a party is managed by an

elected committee. As each party is a private affair it may have an organization to suit itself, except in so far as the State Legislature has stepped in to regulate certain matters. No two parties are therefore exactly alike in the details of their organization, but in general they are very similar.

The Primary.—We saw that government by means of representatives grew up because of a large area and population. In the same way a representative system had to be devised for making nominations for office. In small districts, such as the town, nominations for office can be made directly by a meeting of all the voters of a party, just as the government can be carried on by the town meeting, but in a larger and more densely populated district nominations have to be made by the representative plan. To make nominations in a small district, all that is necessary is a meeting of the voters of a party in that district. This is known as the “primary.” In the State the district for a primary is usually a town, but in the cities primaries are held in the divisions of Assembly Districts, or of city wards, these divisions being known as “election districts,” comprising about four hundred voters each. This primary makes nominations for the local offices, or elects members of a committee or convention which has such nominations in charge, and, at the general election, the names of these nominees appear on the ballot with the names of those who have been nominated after much the same fashion by other parties.

Direct Primaries.—In 1911 a law known as the “Direct Primaries Law” was passed by the Legislature and signed

by the Governor. Its purpose was to make it possible for the voter to express a direct choice for a candidate whom he wished to see nominated for an office.

Except for officers to be voted for by the voters of the whole State, in which case candidates may be nominated only by the State Convention of the party, nominations on the official primary ballot may be made in two ways: (1) by committees or (2) by petition. The various committees are: The Congressional District Committee which may have placed on the primary ballot the name of the candidate for the party nomination for member of the House of Representatives; the Senatorial District Committee for a State Senator; the Judicial District Committee for a Justice of the State Supreme Court; the Assembly District Committee for a member of the Assembly; the County Committee for county offices; the City Committee for city offices; and other committees for officers to be chosen from certain districts. Nominations on the primary ballot for members of the State Convention and of the State Committee may be made by any of the committees that the rules of the party may prescribe. In the hands of the State Committee rests the power, in years when a Governor is not to be elected, to make nominations for offices made vacant by death or otherwise, provided these offices are those to fill which the voters of the whole State vote. It also has the important function, in years when a President of the United States is to be chosen, of nominating the electors for the President and Vice-President.

The members of the above committees are chosen by the voters at the primary and in a measure carry out their wishes. To make it possible, however, for the voters to get a candidate nominated by the party whom a consider-

able number of them wish, the law provides that if five per cent. of the enrolled voters of a party in the district, for which the officer is to be chosen, get up a petition for a certain man, his name shall be placed on the primary ballot. The number of the signers of the petition, however, must not be less than four per cent. of the total vote cast by the party at the last election in the district.

The names designated by the committee and those designated by various petitions then go on the primary ballot and the party voters of the district determine by their votes who shall be the nominee of the party.

Conventions.—Each party may have as many different conventions as it pleases, but the State law makes mention of a State Convention and an Assembly District Convention. By law the latter elects delegates to the State Convention, but delegates to the Assembly District Convention and to all other conventions, except the National Convention, must be chosen at the primaries.

The State Convention of a party is its most important body. It makes public the principles and doctrines of the party and, as we have seen above, nominates men for State offices, such as that of Governor, Lieutenant-Governor, etc., who are to be voted for by voters of the whole State.

National Convention.—The delegates chosen either by the State Convention or in the Congressional Districts of the State, and four delegates-at-large attend the National Convention of the whole party. Here committees and officers of the party are chosen, the principles and doctrines of the party known as a “platform” are drawn up, and men are nominated for the offices of President and Vice-President of the United States.

Irregularities.—Complicated as this method of making nominations may seem, it is in reality not nearly so simple or so regular as it appears here. If we were, however, to give all the details and the many exceptions, we should have to occupy an entire book with them.

Time of Holding Primaries.—The regular primaries are held on the seventh Tuesday before election day. In the year of a Presidential election there is an extra primary held on the last Tuesday in March for the purpose of choosing delegates to conventions which have to do with the National Convention.

Voting in Primaries.—On account of the frauds practiced in primaries, the State has found it necessary to pass very strict laws in regard to their management. Only those regularly enrolled as members of the party in the district are allowed to vote. The public election officers arrange for the place of meeting, and State law sets the hours between which the members may vote as from 3 to 9 P. M. Any attempt at fraud, such as refusal to allow the ballot box to be inspected before the voting begins, and allowing non-members to vote, and counting the vote in secret, invalidates the nomination. When the primary has finished its work, it has set in movement the whole machinery of the nominating conventions which we have mentioned above.

Rival Delegations.—It frequently happens that two sets of delegates are sent by some primaries to a convention, or from a lower to a higher convention. These cause endless disputes, which are sometimes settled only by allow-

Facsimile of Front of Official Primary Ballot

INSTRUCTIONS.







THIS BALLOT SHALL BE BALANCED ON ONE SIDE WITH A PENCIL HAVING BLACK LEAD. TO VOTE A STRAIGHT TICKET MAKE A CROSS (X) MARK WITHIN THE CIRCLE OF EACH TICKET. TO VOTE A SPLIT TICKET, THAT IS, FOR CANDIDATES UNDER DIFFERENT CIRCLES, THE VOTER SHOULD MAKE A CROSS (X) MARK BEFORE THE NAME OF EACH CANDIDATE FROM WHOM HE WANTS TO VOTE. IF THE TICKET MARKED IN THE CIRCLE FOR THE STRAIGHT TICKET DOES NOT CONTAIN THE NAMES OF ALL CANDIDATES FOR WHOM THE VOTER MAY VOTE, HE MAY VOTE FOR CANDIDATES NOT LISTED BY MAKING A CROSS (X) MARK BEFORE THE NAMES OF CANDIDATES FOR THE SAME OFFICES OR POSITIONS ON ANOTHER TICKET, OR BY WRITING THE NAMES IF THEY ARE NOT LISTED UPON THE BALLOT, IN THE BLANK COLUMN, UNDER THE TITLE OF THE OFFICE OR PARTY POSITION. TO VOTE FOR A PERSON NOT ON THE BALLOT, WRITE THE NAME OF SUCH PERSON IN THE TITLE OF THE OFFICE OR PARTY POSITION IN THE BLANK COLUMN. ANY OTHER MARK THAN THE CROSS (X) MARK USED FOR THE PURPOSE OF VOTING, OR ANY ERASURE MADE IN THE BALLOT, MAKES IT VOID AND NO VOTE CAN BE COUNTED HEREON. IF TOO TEAR OR DEFACE OR WRONGFULLY MARK THIS BALLOT, RETURN IT AND OBTAIN ANOTHER, BUT ONLY ONE ADDITIONAL BALLOT MAY BE THIS OBTAINED.

Official Ballot for the Primary Election of the (same) Party






County September 19, 1911

(If City) _____ Ward 99th Election District
(Or Assembly District)

Town (or City) of _____

				
For Representative in Congress.	For Representative in Congress.	For Representative in Congress.		For Representative in Congress.
For State Senator.	For State Senator.	For State Senator.		For State Senator.
PERRY PRINE.	GEORGE PRICE.	PETER PIPER.		
For Member of Assembly.	For Member of Assembly.	For Member of Assembly.		For Member of Assembly.
HARRY JEWELL.	EMERIE JUDSON.	JOHN L. SULLIVAN.		
For Sheriff.	For Sheriff.		For Sheriff.	For Sheriff.
JOHN WILSON.	PATRICK MURPHY.		GEORGE HUMBERT.	
For Mayor.	For Mayor.		For Mayor.	For Mayor.
ALBERT KERN.	ISAAC KIRSTEIN.		CHARLES HARPER.	
For Delegate to the State Convention.	For Delegate to the State Convention.	For Delegate to the State Convention.	For Delegate to the State Convention.	For Delegate to the State Convention.
GEORGE PERKINS.	JOHN JONES.	ALBERT FITCH.	THOMAS FARRELL.	
WILLIAM COOK.	JOHN SMITH.	GEORGE LEECH.	JOHN ELLIOTT.	
PHILIP COTTER.	GEORGE BROWN.	JAMES BAILEY.	MORRIS KAY.	
JOHN BLANDY.	CHARLES MORTON.	EDWARD CARROLL.	FRANK KEE.	
ARTHUR JONES.	FRANK GILBERT.	HARVEY HALE.	RICHARD POTTER.	
For Member of the State Committee.	For Member of the State Committee.	For Member of the State Committee.	For Member of the State Committee.	For Member of the State Committee.
MICHAEL BAKER.	HENRY PRATT.	ALBERT KERN.	FRANK DANIELA.	
For Member of the County Committee.	For Member of the County Committee.	For Member of the County Committee.	For Member of the County Committee.	For Member of the County Committee.
WILLIAM KRAFT.	ROBERT ELLER.	GEORGE ATWOOD.	GEORGE SANDS.	

THIS BALLOT SHOULD BE MARKED IN ONE OF TWO WAYS WITH A PENCIL, MAKING BLACK MARKS.
 TO VOTE A STRAIGHT TICKET, MAKE A CROSS X MARK WITHIN THE CIRCLE AMONG ONE OF THE PARTY COLUMNS.
 TO VOTE A SPLIT TICKET, THAT IS, FOR CANDIDATES OF DIFFERENT PARTIES, THE VOTER SHOULD MAKE A CROSS X MARK BEFORE THE NAME OF EACH CANDIDATE FOR WHOM HE VOTES.
 IF THE TICKET MARKED IN THE CIRCLE FOR A STRAIGHT TICKET DOES NOT CONTAIN THE NAMES OF CANDIDATES FOR ALL OFFICES FOR WHICH THE ELECTOR MAY VOTE, HE MAY VOTE FOR CANDIDATES FOR SUCH OFFICES SO OMITTED, BY MAKING A CROSS X MARK BEFORE THE NAMES OF CANDIDATES FOR SUCH OFFICES ON ANOTHER TICKET, OR BY WRITING THE NAMES, IF THEY ARE NOT PRINTED UPON THE BALLOT, IN THE BLANK COLUMN UNDER THE TITLE OF THE OFFICE.
 TO VOTE FOR MORE THAN ONE CANDIDATE OF THE SAME PARTY, THE VOTER SHOULD MAKE A CROSS X MARK UNDER THE TITLE OF THE OFFICE IN THE BLANK COLUMN.
 ANY OTHER MARK THAN THE CROSS X MARK USED FOR THE PURPOSE OF VOTING OR ANY EVASIVE MARK ON THIS BALLOT, MAKES IT VOID, AND NO VOTE CAN BE COUNTED HEREON.
 IF YOU TEAR, OR DEFACE, OR WHOLLY MARK THIS BALLOT, RETURN IT AND OBTAIN ANOTHER.

 REPUBLICAN TICKET For President, WILLIAM MCKINLEY. For Vice-President, THEODORE ROOSEVELT.	 DEMOCRATIC TICKET For President, WILLIAM J. BRYAN. For Vice-President, ADLAI E. STEVENSON.	 SOCIALIST LABOR TICKET. For President, JOSEPH F. MALLONKEY. For Vice-President, VALENTINE REMMEL.	 PROHIBITION TICKET. For President, JOHN G. WOOLLEY. For Vice-President, HENRY B. METCALF.	 INDEPENDENT NOMINATIONS. For President, EUGENE V. DEBS. For Vice-President, JOB HARRIMAN.	BLANK COLUMN. THE ELECTOR MAY WRITE IN THE COLUMN BELOW, UNDER THE TITLE OF THE OFFICE, THE NAME OF ANY PERSON WHOSE NAME IS NOT PRINTED UPON THE BALLOT, FOR WHOM HE DESIRES TO VOTE.
For Electors of President and Vice-President, FRANCIS A. MITCHELL. SAMUEL J. VANDERBILT. SAMUEL FOWLAND. MICHAEL J. DADD. CHARLES H. RUSSELL. JOHN KISSEL. HENRY C. FISCHER. JOSEPH SHADDOON. WILLIAM E. BELLINGS. HERMAN J. KATZ. FRANK TILFORD. SAMUEL S. KOWING. ARTHUR P. STURGES. JAMES VEREADE. CHAS. W. BLOOMINGDALE. WILLIAM WHEER. FRANK W. MILLARD. CLARENCE LEROM. JOHN W. CODDTS. PETER MCARTHY. SAMUEL L. MUNDON. WILLIAM S. C. WILEY. ROYAL NEWTON. WILLIAM T. O'NEIL. DAVID M. ANDERSON. ROBERT MCKINNON. WILLIAM G. TRIPS. BARBARA C. PHELPS. ROBERT BISHOP. FRANKLIN D. SHERWOOD. CHARLES F. FREESTICE. GEORGE EASTMAN. CHRISTIAN ELINICK. GEORGE URSAM, JR. HERBERT C. RICH. For Governor, BENJAMIN S. ODELL, JR. For Lieutenant-Governor, TIMOTHY L. WOODRUFF. For Secretary of State, JOHN T. WOODRUFF. For Comptroller, FRANCIS C. LEIGHT. For Treasurer, JOHN P. JARREL. For Attorney-General, JOHN C. DAVIS. For State Engineer and Surveyor, EDWARD A. BODD. For Representatives in Congress, GEORGE H. SOUTHWICK. For Senator, JAMES B. MEYER. For Sheriff, EDWARD MCCREARY. For Coroner, THOMAS CLEGGOR. For Member of Assembly, THOMAS E. EDER.	For Electors of President and Vice-President, FREDERICK COOK. ROBERT C. TITUS. ISAAC J. WERRITT. EDWIN KEMPTON. EDWARD KAUFMAN. HENRY GEORGE, JR. WILLIAM J. SEATON. RUDOLPH CHARLES BACHER. JOHN E. WALSH. SAMUEL KAHN. MICHAEL N. WHALEN. RICHARD FITZPATRICK. MICHAEL P. LYONS. HENRY HACHEMEISTER. JOHN J. HARRINGTON. CHARLES FREDERICK WATTHING. JOHN MOGADE. JOHN BRIDEN WALKER. EDWARD STOCKER. JOHN C. MOORHEAD. THOMAS H. CAMPION. WILLIAM H. KEELER. ROBERT WEMBLE. CHARLES OSCAR MCNEEDY. HENRY E. BARNARD. LAURENCE CLANCY. ABRAHAM WEAVER. THOMAS KESEY. GEORGE WELLS SALISBURY. JAMES M. MILNE. ROBERT H. ROCKWELL. JAMES J. MARONEY. JAMES E. CONLEY. WILLIAM SIMON. JOHN MCCLURE WILEY. DANIEL F. TOOMEY. For Governor, JOHN R. STANCHFIELD. For Lieutenant-Governor, WILLIAM F. MACKLEY. For Secretary of State, JOHN T. HORTON. For Comptroller, EDWARD S. WATKINS. For Treasurer, JOHN BROWN JUDSON. For Attorney-General, THOMAS F. CONY. For State Engineer and Surveyor, RUSSELL S. STUART. For Representatives in Congress, MARTIN H. GLYNN. For Senator, CURTIS H. DOUGLAS. For Sheriff, MICHAEL F. DOLLARD. For Coroner, MICHAEL T. SMITH. For Member of Assembly, JOHN T. GORMAN.	For Electors of President and Vice-President, MAX FORKER. CHRISTIAN BAKER. CHARLES VOLLMEYER. JAMES BYRER. ARCHIE JAROLD. CHARLES F. A. WALSH. PETER FISCHER. JOHN KELLY. RICHARD COULDS. EPHRAIM TIPP. JOHN MCELROY. RICHARD HUNTER. CHARLES KEVENEY. CHARLES C. CRAWFORD. FREDERICK C. PULLING. LEON R. PILGUT. MAGNUS SVENSON. GEORGE ABELSON. OWEN CARABARER. MATTHEW STEEL. ALBERT W. BROWER. EDMUND BULLERT. CHRISTIAN MARK. CHRISTIAN ROSEBACH. JAMES A. TRAINOR. GEORGE E. COFFIN. FRANK DANKHOFF. JAMES S. WHITE. JOHN W. MORRIS. ELMER HARRISON. ROBERT WILL. CHARLES A. RUBY. CHARLES WELSON. JAMES W. SHARPE. ROBERT JOHNSON. For Governor, CHARLES H. COFFEGAN. For Lieutenant-Governor, LEANDER ARMSTRONG. For Secretary of State, JOSEPH H. SWENBY. For Comptroller, ALFRED L. KIRK. For Treasurer, JACOB B. ALSTANDER. For Attorney-General, JULIUS EDELT. For State Engineer and Surveyor, JOHN R. WALLACE. For Representatives in Congress, GEORGE H. STEVENSON. For Senator, WILLIAM MURDOCK. For Sheriff, RICHARD G. COOR. For Coroner, MARCOUS HIRSCHFELD. For Member of Assembly, JOHN P. DUNN.	For Electors of President and Vice-President, FRANCIS T. BALDWIN. WILLIAM W. SMITH. HENRY M. RANDALL. ISAAC C. FUNK. BENJAMIN REYNOLDS. ROBERT T. STOKES. EDWARD A. SWEET, JR. WILLIAM E. BROWN. ROBERT SCOTT. CHARLES W. MCELLEAN. TIMOTHY W. HOLDEM. GEORGE CETHUN. EMORY CUMMINGS. JOHN MCKEE. CHARLES S. LAUTNER. JEREMIAH T. BROOKS. ALBERT T. WOOD. CLARENCE M. LYON. JAMES C. RYDER. MITCHELL DOWNING. MATTHEW A. POWERS. LEVI DEDRICK. SPENCER BULLINGTON. WILLIAM H. PLACE. JONATHAN E. HOAG. FREDERICK B. DEVENPORT. WILLIAM C. GRAY. EDWARD H. MILLER. ARTHUR RAY. JOHN W. BARBUS. CASPER O. DECKER. WILLIAM E. BOOTH. BENJAMIN C. MONTGOMERY. EDWIN PUSEY. JOSEPH R. SHEARER. JOHN NICHOLSON. For Governor, WILLIAM T. WARDWELL. For Lieutenant-Governor, ALBERT T. RUSSETT. For Secretary of State, JOSEPH H. BAKER. For Comptroller, MASON V. WOOD. For Treasurer, FRED WILLIAM HEWETT. For Attorney-General, DEXTER M. DORR. For State Engineer and Surveyor, EDWARD F. SMITH. For Representatives in Congress, W. M. GODDARD. For Senator, ISAAC S. ALBRIGHT. For Sheriff, HENRY B. MOAK. For Coroner, JNO. H. FITCH. For Member of Assembly, J. W. F. WOODRICK.	For Electors of President and Vice-President, CARL VOSS. JULIUS HALPERN. VALENTINE S. WORTH. PETER E. BUREKOWES. ARTHUR E. MAYNARD. ALFRED S. FITZTIT. TOMAS FERGUSON. FRANK W. GATTEGUE. WILLIAM WOLMIE. HENRY O. VITALIS. HENRY O. JACKSON. JAMES W. PURNISH. ANTHONY J. OESCHGER. JEREMIAH GUARD. HOWE HEDRICK. FRANK WERNHART. WILLIAM NIKELMAN. RICHARD KETCHEL. WILLIAM LITTELL. WILLIAM NEUMANN. FRANK SCHMITZ. CHRISTIAN WARD. JOHN H. BULLARD. AMERZO M. BUTTERFIELD. CHARLES WILLIAMSON. CHARLES H. WHEELER. CHARLES S. WILSON. JACOB THIESSEN. GEORGE C. JONES. JOSEPH G. DOLL. GEORGE L. WASHBURN. HERMAN KIRCH. JULIUS CREEPER. ADOLPH LARIMOWSKI. For Governor, BENJAMIN MAYFORD. For Lieutenant-Governor, WILLIAM BUTCHKE. For Secretary of State, PHILIP ALCOCK. For Comptroller, FRANK A. GUTENAR. For Treasurer, LEONARD D. ABBOTT. For Attorney-General, HENRY LINDGREN. For State Engineer and Surveyor, HENRY STAHL. For Representatives in Congress, For Senator, For Sheriff, For Coroner, For Member of Assembly, 	

SPECIMEN BALLOT.

ing each delegation to cast half the vote to which the delegation is entitled.

Instructed and Uninstructed Delegations.—It is common for the primary to “instruct” their delegates how to vote in the conventions to which they are chosen. If this convention chooses delegates, these in turn are instructed how to vote at a higher convention. The delegates are, however, frequently sent “uninstructed,” and are thus allowed to use their best judgment as to whom they shall vote for in a nominating convention.

Independent Nominations.—Nominations for office may be made by other means than by the use of a party organization such as that sketched above. For example, if six thousand or more voters wish to nominate a certain man for Governor, they may sign an “independent certificate of nomination,” send it to the official who has charge of the ballot, and their candidate’s name will appear thereon. For officials elected by smaller districts than the whole State the number of names required for an independent nomination is less—that required for a town official, for instance, is only one hundred.

Filing and Publication of Nominations.—When the nominations are once made by the primaries, conventions, and independent groups of voters, they must be filed with the proper officials and published in a certain number of newspapers at specified times before the election. Nominations for officers for which the whole State is the district must be filed with the Secretary of State; those for offices for which the district is larger than the county must be filed with the Secretary of State and the county clerks of all

counties in the district; those for town, village, and city offices with the clerks of those places; those for all other offices with the county clerk. The county clerk sees to the publication of all nominations except those for town, village, and city offices. The clerks of these respective places attend to the posting or publishing of these.

The Ballot.—All the nominations thus filed are printed at public expense on a single sheet of paper. The arrangement is specified by law, and the ballot is known as the “Australian ballot,” because the form was invented in Australia. Each organized party has a special column in which its nominations are placed, and at the top of each column is an emblem, such as a star, or an eagle, by which the voter can easily recognize the column of his party. Under each emblem is a circle and in front of each name is a little square, for the purpose of enabling a voter to vote a “straight” or a “split” ticket. Independent nominations have a column of their own, and there is in addition a blank column in which a voter may put down the name of any man for whom he wishes to vote for any of the offices.

Time of Election.—Everything from the point of view of nominations is now in readiness. Almost all that we have been studying has been done outside of the control of the State, with the view of getting certain men elected on election day. The time of election and almost all of the election machinery which is now to be described is a matter of State law. Election day comes annually on the Tuesday next after the first Monday in November. To enable every voter to cast his vote the day is made a holiday, and the

voting places remain open from six o'clock in the morning until five o'clock in the afternoon.

Election Districts.—For the convenience of voting and counting the votes the State Legislature has provided for the division of the territory of the whole State into election districts. These contain approximately four hundred voters, but in area they naturally vary from a whole town to a portion of a city block. In each of these there is a designated place where voters register and cast their ballots. To vote in a district a voter must have been in residence there thirty days previous to election day. If he has moved into the district within the period of thirty days previous to election day he loses his vote altogether.

Registration and Election.—To attend to the business of registration and voting in a district there are appointed by the local authorities: (1) Four inspectors; (2) two poll clerks; and (3) two ballot clerks, each class being equally divided between the two largest political parties. The four inspectors form a "Board of Registry." It is their duty to hold from two to four meetings at certain intervals previous to the election, and register the qualified voters of the district who put in an appearance to be registered. Any voter who fails to register at one of the times set loses his vote at the election. (This does not hold true of small villages and towns.) These same four inspectors are also known as a "Board of Inspectors," and as such have charge of making all arrangements for the election in the district, and of the order at the polling place. In the place where the election is to be held they have to provide ballot boxes, to see that enclosed booths are set up where the

voter may prepare his ballot in secret, and to set off by railings spaces in which are allowed only the election officers, two watchers sent by each party to challenge illegal voters, and the voter himself. The election officers group themselves about a table in the area enclosed by railings, and are ready to receive the voter.

Voting.—The voter enters the polling place, joins the line of waiting voters, if others are before him, and in his turn gives his name. If the inspectors find his name on the registration list of voters, the poll clerks enter his name opposite a number on the poll list, and the ballot clerks then give him a ballot which has the same number on it. This is on the outside at the top, so that the portion containing it can easily be torn off without affecting the portion on which the names of candidates appear. The voter takes his ballot into one of the enclosed booths and closes the door. On a little shelf-desk, where there is a black pencil provided, he proceeds to mark his ballot. If he wishes to vote a straight ticket, that is, for all the names in a party column, he puts an X in the circle at the head of the column. If he wishes to vote a split ticket, that is, for candidates of different parties, he makes a cross before the name of each candidate for whom he votes. If the column in which he has put an X in the circle contains the name of a candidate for office for whom he does not wish to vote, he may put an X opposite the name of a candidate for the same office in another party column, or may write the name of a candidate under the office in the blank column. If any mark except the cross is used, or if any erasure is made, the vote will not be counted. If the voter tears, defaces, or wrongly marks the ballot he should return it and obtain

another. When he has properly marked his ballot he folds it and passes out of the booth. He gives his ballot to the inspector in charge of the ballot box, who tears off the portion with the number on it and puts it into one box, and the portion with the names and crosses on it into the ballot box proper. The object of the number is to show who in the district has actually voted and deposited his ballot, and also to prevent another man from coming and trying to vote under a name not his own. As the portion with the vote on it is not numbered, however, no one can tell how a man voted.

The Voting Machine.—In some districts machines are used for voting instead of ballots. They have all the advantages of the ballot, and at the same time show the results of the voting as soon as the polling places are closed. It seems probable that they may gradually be put in use everywhere.

Challenging Votes.—It is the business of the “watchers” at the polls to try to detect illegal voters. If they suspect a man they may challenge him. If he then insists on voting, he must, in order to do so, take an oath to the effect that he has the qualifications in that district. If it is subsequently proven that he has taken a false oath, he is liable to imprisonment. Any qualified voter may also challenge another voter.

The Canvass.—As soon as the polls are closed the work of counting the votes begins. This is done publicly by the election inspectors. The results from each district are forwarded to the county clerk. He tabulates the results and presents them to the supervisors of the county, who for

this purpose are known as the Board of County Canvassers. This board reviews the results from the county. The county clerk makes known the county officers elected. The results from each county are filed with the State Board of Canvassers, which consists of the Secretary of State and four other executive officers of the State. This board summarizes the results received from the counties, and the Secretary of State sends a certificate of election to the candidate who has received the greatest number of votes for the office for which he has been running.¹

Publicity.—All of the proceedings connected with the counting of the ballots have to be conducted with the utmost publicity. The results are made known, and the enterprising newspaper press publishes the results long before the official certificates are sent to the successful candidates.

Disputed Elections and Recounts.—When elections are close, that is, when the man elected has only a few more votes than his nearest competitor, the latter is likely to dispute the election on various grounds and to ask an order from the Supreme Court calling for a recount. This recount is usually demanded with the hope of finding that some ballots have been counted for opponents which should have been thrown out on account of defects, or that others for the defeated candidate, which are not defective, have nevertheless been thrown out on the ground of supposed defects. Sometimes a recount is demanded with the

¹For most offices a majority of the votes cast is not required for election, but only a "plurality"—that is, the highest number. A majority means more than one-half of the total number of votes cast.

hope of finding whether a certain voter who was bribed to vote a certain way actually did so.

The Object of these Complex Regulations.—The object of all this complex machinery is to prevent fraud. Men will try to bribe other men to vote for them, to get men to vote twice (repeaters), to have men vote who have no right to vote (colonizers), and to “stuff” the ballot box, that is, put in more than one ballot. The whole system of voting which we have described is to defeat such unfair tactics.

Existing Frauds.—With all the machinery of elections, however, there is still a certain amount of fraud. Many of the practices which we have mentioned above still go on to a slight extent. Marking the ballot with very small dots, or making small slits at certain agreed-upon places in the ballot, are devices employed by the corrupt to show to those who look over the ballots, on the first count, or on a recount, that they have voted as they were paid to vote. The only remedy against such fraud is to throw out all ballots which show even the slightest mark or tear.

The New York System.—Fraudulent voting in this State, however, has been reduced to a minimum, and this is due to the very machinery of voting which we have described. The system of voting in this State is undoubtedly among the best in use in the country.

Election Expenses.—The expenses in connection with the taking and counting of votes are borne by the public, but those in connection with party nominations have to be borne by the parties. They rely upon contributions

from the members of the party, but large sums of money are said to be subscribed by big corporations. These are usually made with the hope of either getting favorable or of preventing unfavorable legislation by the party in case its candidates are elected to office. For this purpose it is said that some business men and organizations contribute to the election campaign funds of each of the two great parties.

Legitimate Uses of Campaign Funds.—Enormous sums are spent in perfectly legal ways. Many letters, pamphlets, and even books are printed and sent to voters to persuade them to vote for the party's candidates. Postage, the rent of rooms for headquarters, and wages of clerks to address mail matter call for vast sums. Notices in the newspapers and the placarding of billboards take a great deal of money.

Illegitimate Uses of Campaign Funds.—Some money is spent in ways which are prohibited by law, because they undermine the very basis of our democratic government. Anyone who directly or indirectly receives, or pays, or promises to pay to another any money, or other valuable thing as a compensation or reward for the giving or withholding of a vote at election is liable to fine and imprisonment. This is meant to prevent the illegitimate use of campaign funds by the parties and the candidates. The latter are further restricted by being required by law to render an itemized statement of the money they have spent during the election.

Nominations and Elections in Actual Practice.—In nominations and elections the practice differs from the theory

much in the same way we saw that it did in the various departments of government. The cause for the difference is the same in both instances. It is the failure of certain citizens to take the interest they should in the nominations and elections.

The Primary in Practice.—We saw that many voters absented themselves from the town meeting because they felt that they would be outvoted. Thus the government of the town fell to those who were least fit to control it. The same thing happens at the primary. The voters do not all meet together at some specified time and make nominations or choose delegates as is done in our debating societies. They straggle in at odd times and place in the ballot box the printed ballot which is given them. In the large cities the voter at the primary frequently does not know by sight or by reputation any of the men for whom he votes. Many voters who should attend and use their influence for good never go to one. The result is that its control falls into the hands of those who make a business of politics. The few outside of this group who do show up at the primary have given no attention to the matter at all, have not even thought of anybody whom they would like to have for local officers, for delegates to a convention, or members of a committee. They grumble, say everything is “cut and dried,” and join the number of those who never go to a primary, never realizing that it is they themselves who are to blame for the condition of affairs. The result of all this is that a well-organized minority of the voters in the district run a party machine there. As the primaries are the foundations of the whole system of party nominations and elections, the party itself all over the State, and

even the nation, falls into the control of a vast "machine" headed by a "boss." Those who wish to break his control must first get control at the primaries by getting out the "stay-at-home" voters.

The "Direct Primaries Law" has been enacted to enable those who objected to the "machine" control of the primaries to get the name of a candidate of their own choosing printed on the official primary ballot (see page 90). The law has not been in operation long enough to state whether it works well or poorly, but in advance it may be safely said that it will not work well unless the voters take enough interest in politics to have the energy to get up the petitions which are necessary in order to get a candidate's name on the ballot.

The Machine.—The machine is a term used to designate a body of voters in a party who stick by each other "through thick and thin." This policy enables them to control the party, even though in numbers they may form only a small minority. As their opponents have no organization and do not "stick together," they have little chance to defeat the machine. Failing in this, they stay at home and do not vote at all. Their withdrawal thus throws the control of nominations and elections into the hands of the machine and the boss.

The Boss.—The boss is the term used to describe the most prominent leader of the party machine in any district. Thus the machine in the primary will have its boss, the county machine has its boss, and so on up to the State machine and the State boss.

The term boss has come to have a bad meaning, that is, that the leader thus described is politically corrupt. Such, however, is not always the case. There are many leaders called bosses who are honest men. The truth of the matter is that democratic government cannot be run without parties, and parties cannot be run without leaders.

The Good in Our Party System.—The organization of parties enables us to run the government successfully. Men from the parties are grouped together to carry out certain policies which they believe to be for the best interests of the country and the people. If they can succeed in getting a majority of the voters to believe with them, the control of the government will be put into the hands of officials elected by them. If not, it will go into the control of another party. Without parties our government would be but a poor affair, following no settled policy, doing one thing one day and another the next, without having any principle or plans of action.

Evils of the Party System.—The objection to our parties of to-day is that they are largely run by dictation from a party boss, and that they have the expenditure of vast sums of money. The members of a party, above all things, wish to be regular. They do not wish to "bolt" their party. This is why they follow the commands of a boss when they inwardly feel that he is wrong, and that what he dictates is not for their own best good or for the good of the general public. The boss who has this control over the members of the party is thus able to control the government officials elected by the party. These officials must do his bidding and pass laws at his dictation, or run the risk of being defeated at the next nominations for office.

This means the loss of a whole future career for them, and they usually end by doing as the boss dictates.

Money Power.—The orders of the corrupt boss are usually in the interest of individuals or corporations who have aided the party by contributions for the election expenses. These contributions being made with a view to having favorable laws put through, or adverse legislation defeated, in case the party is victorious in the election, the boss has to see that the wishes of these individuals or corporations are attended to by the officials whom his party has elected. Individuals or corporations desiring such measures usually approach the party boss, and, by direct or indirect pressure, by means of money or otherwise, get his support. The measures are then “jammed” through by the officials. Whether they are for the best interests of the public or not is a question little considered.

Party Reform.—To reform such evils it is not necessary to do away with political parties or political leaders. In fact, as we have seen, it would be impossible to do without them in a democratic government. What we must do is to get better leaders. To get them all of our voters must go to the primaries, for that is where all reforms which are to be lasting must start. Even if, for the time being, the best men of the party are voted down at the primaries, it cannot be for long. If the voters in a party are bad, and the leaders are bad, the government, if they win in the elections, will be bad, that is, against the interests of the general public. No party which runs the government in that way will stay long in power. The best elements will at last desert it, and it will lose the election, the winning of which

is the main object of party organization. To get back into power the party will have to improve. Little good can be done by finding fault and doing nothing. He who really wishes good government will start at the primaries *to reform the parties from within*. Good parties nominate good men for office, and with good nominations comes a chance for good government.

Elimination of the Money Power.—With good members and good leaders, corrupt men and corporations would have little chance of getting bad laws put through or good ones defeated. To settle the question, however, it would be well to have a law passed compelling political parties to publish an itemized statement of receipts and expenditures during election campaigns. The public would then know from whom money was received and how it was spent.

The Use of Independent Nominations.—When all else fails and the party organizations seem determined to thwart the will of the people, there is always the independent nomination to fall back upon. By this means, if the people are sufficiently roused, the right man can be put into office in spite of the machine.

Attendance at Elections.—The duty of the good citizen does not end with the primary. He must not allow anything to interfere with his going to the polls and casting his vote on election day. To get a good man nominated for office is well enough, but to elect him is better.

Education of the Voter.—Education, unfortunately, does not make party men honest. Some of our most dishonest political leaders have been graduates of colleges. Educa-

tion, however, probably makes the average man more straightforward than he would have been without it. For the cause of good government the education of the voter accomplishes a still greater good than even that. A man who is educated is able to see clearly whether what is proposed by political leaders or officials is going to be to his good or his harm. He is enabled to "know what is what," as the saying goes, and will not permit himself to be led along blindly by the false arguments of some unscrupulous party leader.

Initiative, Referendum, and Recall.—So unsatisfactory have some legislators, officials, and judges at times proved to be that recently there has been much agitation to put into operation methods which are termed the initiative, referendum, and recall. The initiative is applied to that system by which a certain number of voters can get up a measure upon which the legislature must take action. The referendum is the name given to the method by which specified laws passed by the legislature or proposed by the system of the initiative must be referred to the voters for their action. By the recall is understood the power which the voters through the means of the petition of a certain number of them may start the machinery by which a certain elected official may be put out of office and a new election held.

These measures have been advocated and opposed by very good men. It has been said on the one side that their adoption will make legislators, executive officers, and judges much more careful as to the manner in which they act while in office, and on the other side that efficient men will not consent to run for office if they are to be turned out on any whim of the populace. It is further maintained that the voters

will be even more careless than they are now about the sort of men whom they place in office, for they will always comfort themselves with the feeling that they can pass or reject laws which they wish or do not like and can get rid of an official who proves to be worthless. By some these methods have been called the lazy voter's protection against his own neglect to attend to his business as a voter.

SUGGESTIVE QUESTIONS.

1. Obtain sample copies of official ballots, and learn how straight and split tickets are voted.
2. Make a diagram of the voting booth, and go through the details of the voting process.
3. Give all the reasons you can think of why the law insures secrecy of the ballot.
4. Attend a caucus, or primary, and a convention, and write a description of them.
5. Get newspaper accounts of the various conventions which are mentioned in this chapter.

CHAPTER XI.

LOCAL TAXATION

Necessity for Taxation.—We must have a government, and a government costs money. The salaries of officials and the erection of public buildings, the laying out and caring for roads and streets, the supplying of water and a thousand and one things demand the expenditure of a great deal of money. For all of these the citizen must pay, directly or indirectly. He could, if it were convenient, carry his own water, pave his own street, and do many other things which are now done for him. He would have to give up his own business to do them, and thereby lose the money he was making in it, and even then he would not be able to do all that is now done for him. In other words, he finds it easier and cheaper to pursue his own business or profession, and to employ the government to do the other things. The payments he makes to the government are known as taxes.

Who Pays Taxes.—Some people have an idea that only those who make money payments to the tax collectors pay taxes. This is a most unfortunate idea, because it leads some to think that they are getting something for nothing, and makes them indifferent to the lavish expenditures by the government because they think they are not paying for it. We never get anything for nothing. All of us pay taxes whether we pay them directly to the

tax collector or otherwise. Each one of us pays a certain amount for the education we get, for the paving of the roads, for the building of bridges, etc. We may not do this directly, but we do it. If we own a house, or a lot, or a store, or a manufacturing establishment, we do it directly by paying money to the tax collector. If we do not own anything, but simply work for wages and pay for our board and room, or our house rent, we pay taxes indirectly. When the landlord calculates how much he is going to charge for rent, he takes into consideration how much his taxes are, and we pay our share of taxes in the rent we pay. In the price of everything we buy there is a certain portion which goes for taxes. If the landlord and the storekeeper had to pay no taxes, rent and prices of goods would be reduced. If taxes are increased, rents and prices will go up.¹ Even educational and religious institutions, which are exempted from paying direct taxes, have to pay them indirectly in the ways we have mentioned. So all of us, unless we are actually supported by the State in some charitable institution, or are dependent upon others for our support, pay taxes.

Property Tax.—The property tax is the direct tax which is levied in our State on what is known as “realty,” that is, land, houses, barns, and the like, and on “personalty,” that is, on movable property—such as money, jewelry, furniture, pictures, horses, carriages, and the like. On these the owner pays a direct tax to the tax collector. A tax is levied on property in proportion to its value, because it is thought that each owner of prop-

¹ There are many other items which determine rents and prices, and these statements are true only when we omit such items from consideration.

erty receives protection and service from the government in such proportion.

Exemptions from Taxation.—There are, however, many different kinds of property which the government exempts from taxation. A few of such kinds are the real and personal property of educational, religious, charitable, and scientific organizations, deposits in savings banks, United States bonds, and certain State and city bonds.

Assessment of Property.—The question, then, is to determine what the value of property is. Certain officials every year place a value on the realty and personalty in their districts. This is called an “assessment,” the paper or book on which it is made is called an “assessment roll,” and the officials are called “assessors.”

The Tax Districts.—The districts over which the assessors work are known as “tax districts.” These are political subdivisions of the State having a board of assessors authorized by law to assess the property therein for State and county taxes. These districts, then, are the towns and cities of the State.

Contents of the Assessment Roll.—The assessment roll contains the names of all taxable persons and corporations in the district, and a list of the real and personal property owned by each, with its value. After the roll is completed and published, the persons whose property is valued are given an opportunity to appear and make complaints about errors in the assessment, and to ask for corrections. The corrected roll is then sent to the County Board of Equalization.

County Board of Equalization.—There is a tendency on the part of the assessors in tax districts to “undervalue” the property in the district, so as to make taxation light for their districts. In view of this fact, all of the assessment rolls of the tax districts of the county are put into the hands of the Board of Supervisors of the county, whose business it is to “equalize” the assessments, so that the taxes will not bear unjustly on any district. In New York City the boroughs are used for purposes of assessment and the city department of taxes and assessments “equalizes” the returns. This does not mean that the valuations from every district are to be made equal in amount, but simply that, if the real and personal property in one district are more valuable than in another, such a fact shall be shown on the assessment roll. Then when the taxes are levied the wealthy district will have to pay a larger sum total of taxes than the poorer district, but the rate of taxation will be the same. If such equalization did not take place, it would be found at times that poor districts would be put down as having the same or even greater valuation in taxable property than the wealthy districts.

State Board of Equalization.—The assessment rolls of the counties are then sent to the State Board of Equalization, whose business it is to equalize them for the whole State in the same way that the county boards did for the counties. The State Board of Equalization consists of the three Tax Commissioners, who have general supervision over taxation in the State, and the seven executive officials who form the Land Office Commission.

Computing the Taxes.—On the basis of the valuations

of property as set forth in the assessment rolls coming from the State Board of Equalization, several distinct taxes are levied. First there is the State tax, then the county tax, then the town or city tax, and each village also has its tax.

State Tax.—The State Comptroller makes an estimate of how large a sum the State needs from the property tax, and then divides this sum among the counties in proportion to the value of the property which each county is shown to have by the assessment roll. The amount which each county is to contribute to the State tax is made known to the county clerk and board of supervisors of the county.

County Tax.—The Board of Supervisors of the county calculates the amount of money they will need from the property tax to pay the expenses of the county. To this amount they add the amount which the State Comptroller has informed them they must raise for the State. The board then divides the sum among the tax districts of the county in proportion to the assessed value of property in them.

Town Tax.—As we saw above, the ordinary tax district is the town. There is a certain amount of taxes which each town has to raise each year for its own expenses. To this amount is added the amount which the Board of Supervisors has informed each town that it must raise. The sum is then divided among the property owners of the town in proportion to the amount of property which each has. So the sum which each property holder

pays is really made up of three portions: (1) For town expenses; (2) for county expenses; (3) for State expenses.

City Tax.—Earlier we saw that when a city government was formed over a certain area the town organization in that area was given up entirely. For that reason the city is made into a tax district for the area which it covers. Like the town it has to estimate the amount of its running expenses, and to find out what amount is to be paid for by the property tax. To this amount is added the amount required as its portion of the county and State tax. The sum is then divided among the property owners in proportion to the value of their property.

Village Tax.—The man who lives in a village is a citizen of the village, of the town, and of the county in which the village is located, and also of the State. Thus he has really four taxes to pay. Those for the State, county, and town are collected by the method which we have studied above. In addition to these there is a village tax for village expenses. This is usually, but not necessarily, collected at a different time from that at which the other three are collected.

Collection of Taxes.—With the final calculation of what each individual is to pay we have the "tax roll" complete. This contains a list of property owners, the description and valuation of their property, and the tax to be collected from each. This is placed in the hands of the collector of taxes for the tax district. He gives public notification of that fact, and gives an opportunity for all those assessed to come and pay their taxes. If, at the end

of a month, these are not paid, the collector or his agent calls upon the property owner for the amount of taxes due. If they are then not paid, proceedings are begun by which the property of such a person may be "sold for taxes." The process by which this may be done is too complicated for explanation here. All that the authorities are interested in is to get the amount of the taxes. This they aim to do by giving the delinquent property owner as little trouble as possible.

Division of the Proceeds of Taxation.—When the taxes are finally collected, they are distributed among the several officials who are specified by law or the Constitution to receive them. The State, county, town, city, and village treasuries receive their shares and pay them out on requisition for the expenses of their respective districts.

Other Taxes.—Besides the property tax there are other sources from which the government gets revenue. The most important of these are the excise, the inheritance, the corporation, the stock transfer, and mortgage taxes. The excise tax is that which a dealer in liquors has to pay for the privilege. One-third of this goes to support the State, and the other two-thirds goes to the town or city in which the liquor store is located. The inheritance tax is that which must be paid upon property left by a deceased person, provided the property is above a certain amount in value. The corporation tax is that which is paid by corporations: (1) When they are organized; (2) when corporations organized in other States wish to do business in this; (3) when certain corporations, such as insurance companies, railroad companies, and others have to pay a certain amount on their annual incomes. The stock transfer tax is that paid

on the sale of shares of stock on stock exchanges. The mortgage tax is that paid when a mortgage on property is made. In addition to all these there is another tax, recently declared constitutional, called the "franchise tax," which goes to the political division of the State that grants the franchise. A franchise may be defined as a certain privilege granted by the State, or a political division of the State, to a corporation or individual to carry on business of a certain kind. Such privileges are those granted to gas companies to use the streets for their pipes, to street railway companies to use the streets for laying down their tracks, and other like privileges. These privileges, being almost exclusive, come to have great value, and the government has imposed a tax on them.

Cost of Collecting Taxes.—The most inexpensive taxes to collect are the last two mentioned. The cost of collecting them is only a very small percentage of the amount received. The property tax and the excise tax are more expensive to collect. It requires more officials to get them because the process is more complicated. However, we collect our property tax more cheaply than most European countries do. Our system of assessment and collection is practically carried out by one set of officials, and the expenses are thereby reduced to the smallest possible figure.

Faults of Our System.—The faults of our system may be stated under four headings: (1) Undervaluation; (2) concealment of personalty; (3) tax dodging; (4) differences in tax rate.

Undervaluation.—Of undervaluation by assessors we have already spoken. It is an evil that the boards of

equalization try to do away with. They succeed to a certain extent, but there is always a certain amount of undervaluation going on which makes taxes for others heavier than they should be.

Concealment of Personalty.—Realty cannot be concealed, but money, bonds, jewelry, and most property which we know as personalty can be so easily concealed that it may be safely stated that there are but few people who make known to the assessors all of their personalty. The absolutely honest people who declare their property are at a disadvantage compared with the dishonest. Many authorities think this tax on personalty encourages dishonesty and favor its repeal. There is a penalty for making false declaration of the amount of personal property, but the offense is so difficult to prove that practically no one is ever tried and punished for it.

Tax Dodging.—Tax dodging has many meanings. It may mean simply concealment of personalty, but it is more frequently applied to the system used by certain people who, though really living in one place where the taxes happen to be high, make their legal residence in a place where they are low. This enables them to pay a low assessment on their personalty. Tax dodging of this sort is most common in New York City. A recently proposed law has made personalty taxable where it is located, and not where the owner resides. It is hoped that this will stop tax dodging to a certain extent.

Difference in Tax Rates.—Tax rate is the term applied to the percentage which a property owner has to pay in

taxes. Thus if the tax rate is 0.014, the property owner will have to pay at the rate of \$1.40 on a hundred dollars worth of property, or \$14 on a thousand dollars worth. In the city, where the property owner has much more done for him by the government than in the town, taxes are usually much higher. The State tax is, of course, the same over the whole State, the county tax is the same over the whole county, but the rates for different counties differ. What is true of the counties is true of the towns, cities, and villages. Thus in different parts of the State the tax rates vary. It may be at the rate of \$24 on a thousand in a city and only \$14 on a thousand in a town. This leads some localities to feel that they are being unfairly treated, but further consideration will show that the difference is due not so much to what the State and county impose as to what the town or city or village imposes in the way of taxes.

Should Everybody Pay a Direct Tax?—We have already seen that we all pay taxes directly or indirectly. Governments under tyrants always favored indirect taxes because the people did not realize that they were paying them, and were kept contented. In democracies there is no occasion for keeping indirect taxes for such a reason. When every man shares in the government, he should understand it in all its workings. He should know from the very start that the needs which the government supplies cost money. Anything which tends to obscure that fact should be done away with as much as possible. Some think that the only way to make everybody realize that he pays to support the government is by means of direct taxes. Those who have to pay money directly to

the government are far more likely to be thoroughly interested in seeing it economically and well run.

SUGGESTIVE QUESTIONS.

1. What reasons can you give for exempting from taxation the various kinds of property mentioned in this chapter?
2. Get facts concerning the prevailing practice of valuing property in your own and neighboring localities.
3. If a man's property is valued at \$1,000, when it should be \$2,000, does he pay his fair share of the county tax? Can the county board correct the matter?
4. Do the equalized valuations fixed by your county board seem reasonable?
5. What was the amount of State tax paid by your county last year? The amount of county tax? Make a calculation showing how the amount of State and county tax due from your local government was determined.
6. Your local treasurer will give the necessary data from which you may calculate the rate of taxation. Calculate the taxes upon property that is worth \$6,000.
7. State reasons why the tax rate varies in different towns; in adjoining counties.
8. From what sources does money come into your local treasury?
9. For what purposes was money expended in each case? These facts may be found in the last reports of the local and county treasurers.
10. Find out the difference between "direct" and "indirect" taxes. Does New York State impose any indirect taxes? Does the Federal Government? Give some examples of indirect taxes. Who pays them?

CHAPTER XII.

STATE FINANCE

Definition of State Finance.—In general, State finance may be said to refer to the receipt and expenditure of money for State purposes. In a way this also includes the raising of taxes, but as the method of raising State taxes also involves the raising of county, town, city, and village taxes, we treated them all in a separate chapter on taxation.

Income of the State.—The State property tax forms a very small portion of the income of the State, but there are other sources of income, such as the excise, inheritance, corporation, stock transfer, and mortgage taxes. In addition to all these, the State has the income from funds which were invested many years ago to yield interest to be devoted to certain purposes. Some of these funds are known as the Common School Fund and Literature Fund. The total income of the State amounts to over fifty millions a year. Of this a little over a million is derived from funds and miscellaneous sources, and the rest comes from taxes. In taxes the State gets about nine millions from the excise, seven millions from the inheritance, nine millions from corporations, six millions from stock transfers, two millions from mortgages, and the rest from miscellaneous fees, fines, etc.

The State Treasurer.—The State Treasurer is the custodian of the income of the State. He keeps account of all moneys paid into the State treasury, or paid out of it. For the purposes of bookkeeping, the moneys in the treasury are divided into funds. There is the general fund which is to be used for general expenses, the school fund to be used for the schools, the canal fund for the canals, and many others. When any money is received or paid out it is put down as being received by, or paid from, some particular fund. Of all his transactions he keeps an accurate account and presents an annual report to the Legislature.

The State Comptroller —The Treasurer cannot pay out any money from the treasury without an order or warrant. This order comes from the State Comptroller. He, in his turn, cannot order money paid out unless the Legislature has appropriated it for the purpose for which it is to be paid. The Comptroller, like the Treasurer, has, therefore, to keep very careful accounts. It is his business to audit the accounts of all departments of State Government, to invest State moneys, and to take charge of the securities representing the investments.

The Budget.—In addition to the above duties of the Comptroller, it is his business to make every year an estimate of the expenses of the State Government. This he does by reference to the expenses of past years. In connection with this itemized statement of expenses, he sets down the estimated amounts of revenue which it is probable are to be derived from various sources in the coming year. The document so prepared is popu-

larly known as the "budget." It is presented to the Legislature for action. That body may increase or diminish the amount of any item called for in the expense estimate, or may insert new items, and whatever amount it passes is known as the appropriation for the account for which it is specified. If the amounts to be derived from the sources of revenue are not sufficient, the Legislature must devise new methods of taxation, or the amount must be derived from a general property tax. This is something the Legislature does not like to do, because it creates much objection from the property owners.

Expenditures.—The various departments of the State government need large appropriations of money. The salaries of the legislators and their clerks, the printing of the legislative proceedings, and miscellaneous charges involve an expenditure of over one million for the legislative department. The salaries of the Governor and of various other executive officials and commissions involve an expenditure of over four millions. The salaries of judges, court clerks, and others in connection with the Court of Appeals, the Supreme Court, and the Board of Claims make the department of justice cost about one million. Over seven millions are expended for public education, eight millions for charities and correction, six and a half millions for the departments of health, agriculture, labor, and insurance, the militia, the forest and game commission, and a long list of others. In addition, there is about a million spent for miscellaneous items. All of these expenditures are

for the benefit, directly or indirectly, of all the citizens, and are properly borne by them.

Debts.—It is a good rule which says that no individual, corporation, or State should spend more than it receives. In the history of all of them, however, there are times when this rule must be broken. Certain extraordinary occasions arise, such as the outbreak of a war, or the construction of some great public work like the Erie Canal, which make it necessary to incur expenses for which the ordinary funds are not sufficient. Great sums of money have to be borrowed. This starts the State debt. Bonds are issued for the money borrowed, and interest must be paid on them until they are redeemed. Not only the citizens who are living at the time that the debt is contracted have to bear the burden of the debt, but also future generations of citizens. This is no more than fair, however, for those future generations are frequently far more benefited by the results of a war, or the building of some great work than are those who live at the time that the debt is contracted.

Restrictions on the Legislature.—The decision as to whether a debt should be incurred used to be left to the Legislature, but this was found to be unsafe. Legislatures have usually shown themselves to be rather extravagant bodies. We saw that the State Constitution had been so changed as to make it necessary for three-fifths of all the members elected to each house to be present when an appropriation bill was passed, and that to pass an appropriation for private or local purposes it is necessary to have a two-thirds majority of all members elected

to each house. It has also been found necessary to place in the Constitution certain further restrictions on the power of the Legislature over the people's money. It may, of course, not lend the public money to any individual or corporation. It may not contract debts to meet current expenses to an amount exceeding one million dollars, except in time of invasion, insurrection, or war. The money arising from loans creating such a debt shall be applied only to the purpose for which it was raised, or to repay the debt. Except the debts specified above, the Legislature may contract no other extraordinary debt unless authorized by law for a specified object, and not until the law so passed is submitted to the people and approved by them.

Sinking Fund.—The State Constitution also declares that a law which provides for the contraction of an extraordinary debt shall also make provision for the payment of it. The debt cannot be contracted for a longer period than eighteen years, and the law must provide for a direct annual tax to pay the interest and also the principal when it falls due. This is known as a "sinking fund," because every year a certain amount is laid aside, and at the end of the period when the debt is due all of the yearly amounts added together just make up the amount of the debt. By the State Constitution these sinking funds must be kept separate from other funds under the control of the State.

Present State Debt.—The present debt of the State is about fifty-three millions. About one-fifth of this has been expended for highway improvement and the balance for

the Erie Canal. The people have authorized the contraction of a debt of one hundred and one millions for making over the Erie Canal into a "Thousand-Ton Barge Canal," and have recently approved an additional issue of \$19,800,000 in bonds for canal terminal facilities.

History of State Finance.—The financial history of New York State has not always been marked by prudence either in the making of appropriations or in the contraction of debts. The Legislature frequently, and even the people at times, have shown themselves careless in these matters. Preceding the Civil War the expenditures were very heavy, and during the war they increased enormously. After the war a period of great political corruption in the State kept expenditures on the increase when they should have been decreasing. In recent years the expenditures have been kept down considerably, though there is an ever-growing tendency to spend more and more money.

Good Qualities of Our State Finance.—New York State, however, probably stands higher than other States in the Union in the management of its finances. If at times it has managed badly, the others have done worse. It was from New York State that the National government borrowed the banking system now the foundation of our National banks. Our system of State banks has been the model for other States to follow.

Faults of Our Financial System.—Provisions in the State Constitution have gone far toward making it impossible for the Legislature to do harm, but there are still some faults. In New York City we saw that the

Board of Aldermen could not add, or increase, items in appropriations asked for by the Board of Estimate and Apportionment. No such prohibition exists in the State Constitution against the Legislature. As a result that body sometimes votes to incur expenditures for which there is only doubtful need.

Should State Expenditures be High?—When we consider that it is our local governments, such as the county, town, city, and village, which do most for our immediate comfort, there seems to be little reason for the expenditure of enormous sums by the State. It has its functions, but there is a growing feeling that the local units should attend to local needs, and that one locality should not be called upon, through the State government, for taxes to bear the burdens of some less enterprising community.

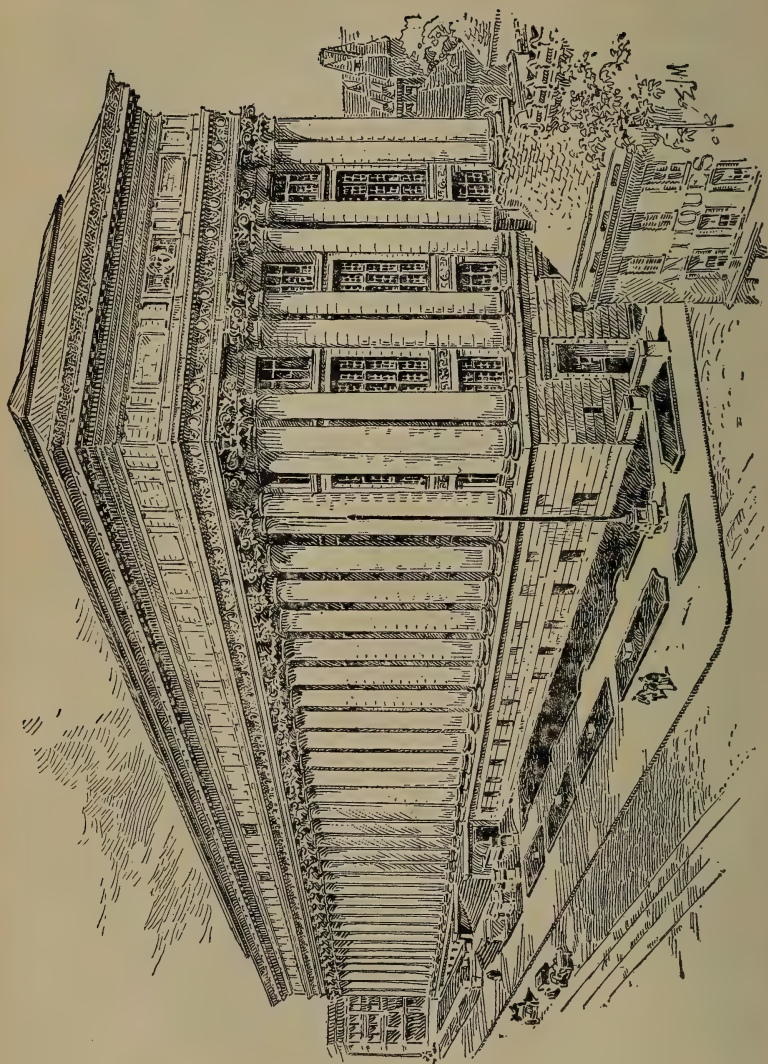
Extravagance.—There is little doubt but that extravagance is the rule. When expenditures exceed the revenues, few are those legislators or officials who stand up for a reduction of expenses. Almost all of them seek for new methods of raising revenue, thus increasing, directly or indirectly, the taxes which every citizen must pay.

Causes.—The responsibility for this extravagance rests largely on the shoulders of the voters. It is in their power to stop it at any time. As we saw above, many of them do not realize that everybody in the State is affected by taxation and that any increase in it due to extravagance falls on all. Other groups of citizens are making constant demands on the State government. If any need arises their first cry is to get the State to attend to it.

Remedies.—The remedy here, as in the case of all our other faults, is the education of all to be intelligent voters. When that is accomplished, eternal vigilance on their part is necessary to see that their legislators and officials are good men and do their duty.

SUGGESTIVE QUESTIONS.

1. Find in the latest Legislative Manual the report of the State finances and compare the items with those given in this chapter.
2. What was the amount of the State tax levied in your county last year? Can you find out the amount paid by your local government?
3. What justification can you find for an inheritance tax?



THE NEW EDUCATION BUILDING AT ALBANY.

CHAPTER XIII.

EDUCATION.

History of Education in New York State.—As compared with some of the other States of the Union, New York has at times lagged behind in matters of education. The early Dutch settlers encouraged it, but when the English came into control it was allowed to languish. In 1754, however, King's College, now Columbia University, was established in New York City. In 1784 the State Legislature established a corporation, known as the Regents of the University of the State of New York, to exercise a supervisory control over colleges and secondary schools in the State, but it was given nothing to do in connection with the lower schools. The Regents did such important work for education in the State that in the last State Constitution a provision was made for their continuance under the name of the University of the State of New York, with not less than nine Regents. Nothing was done for the lower or common schools by the State until 1795. In that year and subsequently appropriations were made by the Legislature to assist the counties in the maintenance of schools. The State gradually took more and more interest in lower schools until in 1844 a Normal School was established at Albany for the training of teachers, and in 1854 the office of State Superintendent of Public Instruction was established, and he was

given general charge over the common schools of the State. It was not until 1867, however, that the schools were made free, and now by a clause in the State Constitution it is made the duty of the Legislature to provide for free common schools in which all children of the State may be educated.

Recent Legislation.—There were thus really two educational departments in the State, each one independent of the other: (1) One under the control of the Board of Regents, having supervision over colleges, academies, high schools, and other educational institutions above the rank of the common schools; (2) the other under the control of the State Superintendent of Public Instruction, having supervision over the common schools and the training schools for teachers. There was one line of connection between the departments—the State Superintendent of Public Instruction was a member of the Board of Regents. Endless conflict between the two departments finally led the State Legislature in 1904 to pass a law considerably modifying the duties of supervision of the two departments, but scarcely changing the details of the educational system. The offices of State Superintendent of Public Instruction and of Secretary of the Board of Regents were abolished and their powers and duties given to a new officer—the State Commissioner of Education.

State Department of Education.—The State Department of Education comprises at present, then, three chief features: the University of the State of New York, the Board of Regents, and the State Commissioner of Education.

University of the State of New York.—The University of the State of New York is not a university in the ordinary sense of that word. It has no buildings of its own, no apparatus, no teachers. It is a corporation, consisting of a federation of a large number of the higher educational institutions in the State. Over these the "University" exercises a supervisory control. In exercising this control the University is represented by a Board of Regents.

Board of Regents.—As now organized the Board of Regents consists of twelve members, chosen for terms of twelve years by the Legislature. One member goes out each year, and either he himself or a new man is elected by the Legislature to fill the vacant place. As far as possible, members are chosen to give representation on the Board to each judicial district in the State. The executive and financial officer of the Board is the State Commissioner of Education.

State Commissioner of Education.—The State Commissioner of Education is chosen by the Board of Regents and holds office at their pleasure. As in his office are combined the powers and duties of the Superintendent of Public Instruction and of the Secretary of the Board of Regents, he practically has control of all educational matters in the State. For purposes of management and supervision he has the power to create such departments as he thinks necessary, and to appoint deputies and heads of such departments, subject to the approval of the Board of Regents.

Assistant Commissioners and Other Officers.—Under

these provisions three assistant commissioners have been appointed: (1) One to take charge of the department of colleges, professional and technical schools; (2) another to take charge of the department of high schools; (3) and a third to take charge of the department of elementary or common schools. There is a director of the State Museum and of the science work, another in charge of libraries and home education, and several other officers in charge of special divisions of educational work.

Powers and Duties of the Board of Regents.—The Board has power to grant charters of incorporation to colleges, universities, academies, professional and technical schools, libraries (other than public school libraries), and museums; to exercise supervision over such educational institutions as form a part of the University of the State of New York; to inspect them, and to distribute to them funds granted by the State for their use; to establish examinations as to attainments in learning, and confer on successful candidates suitable certificates, diplomas, and degrees.

Powers and Duties of the State Commissioner.—Besides acting as the executive and financial officer of the Board of Regents in carrying out its special powers and duties, the State Commissioner of Education exercises special powers in connection with the common and secondary schools. He directs the course of study, prepares examinations for teachers, settles disputes about the interpretation of laws affecting the schools, and sees to the enforcement of the compulsory education law. He must make an annual report of the State Department of Education to the Legislature.

Common School Districts.—For the purposes of school administration the State is divided into districts, known as school districts. In each of these there is maintained a free common school.

School Meetings.—In each district there is held every year a meeting of the voters in the district. Only those adult citizens, men or women, who own or rent lands in the district subject to taxation, or pay taxes on personal property of the value of fifty dollars or above, or control children who have attended the district school for eight weeks previous to the meeting, have the right to vote. At these meetings the voters generally elect three trustees, a clerk, a collector, and a treasurer. The voters also have the power to fix the site of the schoolhouse, and to vote a tax on the property of the district for the building and maintenance of the school. In addition to this money, there is money given to each district by the State.

School Trustees.—The School Trustees must be qualified voters of the school district, and must be able to read and write. When there are three in a district they hold office for three years, one retiring and a new one being elected each year. They are the executive officers of the district. They call special meetings of the voters; attend to the purchase of lands for schools; make out tax lists for those in the district who have to pay taxes for school purposes; employ teachers; make rules for the government and discipline of the school; prescribe the course of study; make requisitions on the town supervisor for money due from the State, and on the collector for money due from the district. They are subject to the rules and

regulations laid down by the State Commissioner of Education.

District Superintendent and His District.—By a recent law the whole State has been divided into supervisory districts, one to eight in a county. Cities, and villages having over five thousand inhabitants, are not included in these districts, as they have boards of education of their own to look out for the interests of the schools. Over each supervisory district is placed a District Superintendent. This officer is chosen by the School Directors, who are in their turn chosen (two from each town in the supervisory district) by the people of the towns. The State pays the District Superintendent a salary of \$1,200 per year and \$300 for travelling expenses, but this may be increased by the supervisors of the towns of the district. The term of office is for five years, but the incumbent may be removed by the State Commissioner of Education.

To be eligible for the position of District Superintendent a man or woman must be a citizen of the United States, twenty-one years of age, must hold a certificate to teach in the public schools of the State, and must pass a special examination in the supervision and teaching of agriculture.

The District Superintendent has supervision of all the common schools in the district, has power to change the boundaries of school districts and make new ones, may condemn school-houses and order new ones built, and, under the direction of the State Commissioner of Education, may examine and license teachers. Appeals from the decisions of the District Superintendent may be carried to the State Commissioner.

Union School Districts.—Besides the school district, and the District Superintendent's district, there is another district made possible by statute. This is known as the

Union School District. One or two or more adjoining school districts may form a union district and establish a union school. In such a case the ordinary officers of the school district cease to exist, and their place is taken by a board of education, consisting of from three to nine members, elected by the voters of the union district. This board exercises the ordinary powers of the School Trustees, but it has power in addition to establish a high school department, and if the union district has five thousand or more inhabitants it may elect a superintendent.

City Schools.—The schools in cities and large villages do not come so directly under the control of the State Department of Education as do the schools in other districts of the State. In cities special provision is made for schools in the city charters. They are placed under a board of education appointed by the Mayor, or elected by the qualified voters. This board is responsible to the State Commissioner, and must make such reports to him as the laws require. It elects the Superintendent of Schools, who has general supervision over the teachers and the schools. Sometimes this officer is elected directly by the people.

Normal Schools.—The State very early found it necessary to provide schools wherein teachers might be trained. These are known as Normal Schools. There are twelve of them in different localities in the State. They are under the control of a local board of managers appointed by the State Commissioner, whose approval is necessary of any rule or course of study which the managers may make. Training for teachers is also given in academies in so-called "teachers' classes," and by "teachers' institutes" under the direction of District Superintendents. In New York City there are training schools for teachers under the Board of Education, and a Normal College under a Board of Trustees.

Special Schools.—Schools for Indians, and schools for deaf, dumb, and blind are under the State Commissioner, who makes provision for their inspection and supervision.

Teachers' Licenses.—Every person who desires to teach in the schools of the State must have a license or certificate. These are of various grades, and are issued as the result of examinations given by the State Department of Education, or by reason of graduation from some college or teachers' training school. In many cities, New York, for example, the Board of Education has its own system of examinations and licenses and a special license must be obtained in order to teach in the city.

Compulsory Attendance Law.—The State has not only provided for the education of its citizens, and for the thorough training of teachers, but it has gone further, and declared that all children between certain ages must go to school. Every child between eight and fourteen years of age, who is physically and mentally fit, must attend school regularly or receive private instruction of equivalent value. Children between the ages of fourteen and sixteen must go to school, but are permitted to go to work provided they have had one hundred and thirty days schooling since they were thirteen years of age. Permits are granted by the health officers. Anyone employing a child without such a permit is subject to prosecution and fine. To see that the attendance law is carried out, certain officers, called attendance or truant officers, are appointed in each locality. They may arrest truants without warrant. Parents failing to see that their children attend school according to law are subject to fine. Localities

which fail to see that the law is enforced may have their portion of school moneys from the State withheld by the State Commissioner, and the local officer who wilfully neglects its enforcement is liable to removal.

State Aid for Education.—Besides the money raised for education in the local district, the State distributes certain sums of money from general taxes and also from certain funds invested many years ago, the income from which is devoted to education. The apportionment of these moneys is in the control of the State Commissioner, who plans to make the distribution as fair as possible by basing it on certain statistics which he receives from the various schools.

Private Educational Institutions.—Outside of the State system of education there are numerous private and parochial schools and denominational colleges. These do not receive State aid. The Constitution prohibits the giving of any State money to any educational institution wholly or partly under the control of any religious denomination, or in which any denominational tenet or doctrine is taught.

Excellence of the New York System.—The centralization of the power over the schools in the hands of one man has many advantages. It keeps the education uniform throughout the State, and prevents certain localities from neglecting the education of children by getting inferior teachers. The liberal distribution of money by the State has served as an incentive to all the schools to make their work of a high order.

Faults of the System.—There is a possibility of overdoing the uniformity. The educational officers are likely to wish to see every teacher teaching in the same way and teaching the same things at the same time. There is danger of having the whole educational system of the State become nothing more than a huge machine. If we are not careful, our system may come to be like the one which France is said to have had. The story is told that the Minister of Public Instruction in that country had the system worked out so nicely that he could tell what was being taught in every class of every grade at any hour and any minute, throughout the length and breadth of France. Teaching cannot be carried on like manufacturing. A great deal must be left to the teacher. A system which will provide good teachers for us is the one we want. We do not want one which is so uniform in character that the teachers think more of the machinery than they do of the teaching.

Examinations.—There is a tendency in the State and in the cities to put too much stress on having the pupils pass uniform examinations. This system is one which is carried to excess in England and in Canada. It has some advantages. It keeps a poor teacher up to a certain standard of work. It has many disadvantages. It makes the school a mere machine for preparing pupils for examinations. Every energy is bent to passing them. Good teaching is not done. It becomes mere cramming. The good teacher is brought down to the level of the poorest, and the poorest is raised but slightly.

One-man Power.—Foreign observers have noted it as a fact that in our democratic country the educational

system is run on a more autocratic basis than would be possible in the monarchical countries of Europe. Americans have found that in order to get things done properly it is necessary to choose some one man to do them, and then tell him to go ahead. This certainly accomplishes the desired end, but if it is carried too far it is dangerous. A man endowed with too much power is inclined to crush his subordinates. Unless the latter are given the privilege of making known their complaints and their grievances without being in fear of dismissal or of losing promotion, the system is at fault. The complaints of subordinates in this branch of the public service, as in all other branches, frequently uncover a great deal of corruption and incompetence among higher officials. Any system which tends to check such complaints tends to perpetuate a bad administration when it once gets control of public affairs.

Politics in the Schools.—An evil which has prevailed in the past more than it does at present has been that of making the appointment of teachers, principals, and superintendents depend upon political influence. In New York City, where the evil was once at its worst, it has been almost completely killed by the establishment of "eligible lists." These are lists of candidates, successful in passing the examinations set for teachers or principals, ranked according to the percentage which they attained. When a vacancy occurs it is filled by selecting a candidate from among those near the head of the list. This system has its faults, but it is probably the best devised as yet. Some other districts in the State are not so well served as New York City.

Shall School Officials be Elected or Appointed?—Whether school officials in the State, such as commissioners, superintendents, and boards of education, should be appointed or elected is one of the most vital questions of the day. There is strong support for both sides of the question. Few deny, however, that the school system, in the necessity for being kept clear from politics, is more nearly like the judiciary than any other department of government. In the case of the judiciary, we saw that a judge attended to his duties better if he were not under the necessity of trying to get reëlected at short intervals. It is a question if the same does not hold true of school officials. In districts where the population is small the system of election may not be considered an evil, nevertheless the temptation to reward political supporters or their friends must always be great. In the large cities appointed boards of education seem to work better on the whole than where such boards are elected. The average voter in the cities does not seem to be able to distinguish between the sort of man whom he ought to choose for an educational officer and the one whom he chooses for his district leader. Even if he were able to do so, the very necessity of an educational officer running for office at all on a political party ticket draws the schools into politics more than could possibly be the case when such an officer is put into office by appointment.

The "District" Evil.—In providing for the selection of a State Commissioner of Education the Legislature very wisely enacted that a man not a resident of the State might be chosen to the office. That same principle should hold true of all educational offices from the lowest grade

teacher to the highest official. Unfortunately it does not. The policy of getting "home talent" in preference to "outsiders" is responsible for a good deal of poor work in our educational department. It is an evil which is not confined to New York State, however, but it is one which we should do well to take the lead in stamping out as much as possible. The mental ability of no two people is the same, and in matters of education, at least, we should always try to get the best person procurable, whether from some other district than our own within the State, or from some other State.

SUGGESTIVE QUESTIONS.

1. **Make a study of the way in which the school system of your home is maintained and governed:** (a) Is there a school meeting? (b) Who are the school officers? How do they get their positions, and for what terms? (c) How are the teachers selected? (d) Who votes the school taxes? How much was raised last year? (e) How much State aid was received? (f) How is the supervision of the schools provided for?
2. **What recommendations were made by the school commissioner or superintendent in charge of your district in his last report?**
3. **Is the law regarding compulsory education enforced in your locality?** Get a copy of the work certificate from the health officer and follow the steps that must be taken before an employer is allowed to give employment to a boy under sixteen.
4. **Make a list of the sources from which the State receives money for the State Department of Education.** (See the Legislative Manual.)
5. **Subject for debate:** Should school officials, such as commissioners, superintendents and boards of education, be elected or appointed?

CHAPTER XIV.

AMENDMENTS TO THE CONSTITUTION.

Power of the People.—It is proper that the closing chapter should be devoted to the consideration of how the State Government may be changed. The State must have a republican form of government and is prohibited from doing certain things specified in the Federal Constitution. Outside of these restrictions, the people of New York State can do what they please with their government. They can at their pleasure change its whole machinery so completely that the future working of it would be almost entirely different from that which it is to-day. These changes they may make through their representatives in the Senate and Assembly by means of amendments to the Constitution, or through a Constitutional Convention the delegates to which are elected by the voters for the especial purpose of changing the Constitution.

Amendments.—Amendments may be proposed in the Senate and Assembly. If they are agreed to by a majority of the members elected to each house they are to be referred to the Legislature to be chosen at the next general election of Senators. Three months before such an election takes place, however, the proposed amendment or amendments must be published, so that the voters may

know what they are. If the Legislature then chosen approves of the amendments by a majority of those elected to each house, it must then submit them to the people for approval. If a majority of the voters approve of them, they become a part of the Constitution on the first day of January following such approval.

Constitutional Convention.—The Constitution provides that at the general election to be held in the year 1916 and in every twentieth year thereafter, or at any other time that the Legislature may provide by law, the question shall be put to the voters: "Shall there be a convention to revise the Constitution and amend the same?" If a majority of the voters decide in favor of it, three delegates are chosen from each Senate District at the election in the year following and also fifteen delegates-at-large. These form the Convention. Any constitution or constitutional amendment approved by a majority of the members elected to the Convention must be submitted to the people not less than six weeks after the Convention has finished its work and adjourned. If the majority of the voters approve of the changes, then the new or amended Constitution goes into effect on the first day of January following its approval by the voters.

Character of the Constitutional Convention.—The delegates chosen to the last Constitutional Convention in this State, held in 1894, were among the most capable men in the State. However careless the voters may sometimes show themselves in electing members of the Legislature, when it comes to the Constitutional Convention they choose the best. The Constitution is a document

that they do not care to have tampered with by any inferior men.

Interest in Conventions.—The general public and the newspapers manifest the greatest interest in the Convention, far more than is shown in the proceedings of the Legislature. Perhaps, if the same interest were shown in the latter as in the former body, our legislative enactment would be of a higher order, and the men chosen to the Legislature would compare more favorably than they do now with the men chosen to the Convention. The Convention, however, only comes at great intervals. It is possible to awaken greater interest in it for that reason. The voters do not seem to be able to keep up their interest in a body which, like the Legislature, meets every year.

History of Amendments.—Since 1894 there have been no amendments to the Constitution. Preceding that date, of the many amendments submitted for approval the people accepted a very large number and rejected only a few. In 1869 they rejected an amendment relating to assessments, in 1873 they rejected by overwhelming majorities amendments making the judges of the higher and of many of the lower courts appointive, and in 1892 they rejected amendments relating to the powers of the two houses of the Legislature, the election of additional judges to the Supreme Court, and a third relating to certain Salt Springs. Many amendments, however, have been proposed in the Legislature which have never been submitted to the people because they have not received the requisite number of votes in the two houses. The large

number of amendments accepted and the few rejected by the people go to show that the Legislature is very careful of the sort of amendments it submits to the voters rather than that the people are careless in their consideration of them.

History of Conventions.—The people, as we have seen earlier, have never shown themselves opposed to increasing the length of the Constitution. They have always accepted the proposals for conventions and have with one exception approved of the constitutions or amendments proposed by them. In 1869, however, they rejected the Constitution as amended by the Convention called in 1866, and accepted only two of the amendments proposed.

SUGGESTIVE QUESTIONS.

1. Why should a proposed amendment be printed for three months preceding the general election following its first adoption by the Legislature?
2. What reasons can you give for the requirement that an amendment shall be adopted by two Legislatures?
3. Why is it made more difficult to make an amendment to the Constitution than it is to pass a law?
4. Compare the method of amending the Federal Constitution with that of amending the State Constitution.
5. Give reasons for and against long constitutions.

STATE AND LOCAL OFFICERS.

(In the order in which they appear in the text.)

NAMES.	Term of Office.	Salaries.	How Chosen.
<i>Legislature.</i>			
Senator	2 years.	\$1,500	By the people.
Assemblyman	1 year.	1,500	By the people.
<i>Executive.</i>			
Governor	2 years.	10,000	By the people.
Lieutenant-Governor	2 years.	5,000	By the people.
Secretary of State	2 years.	6,000	By the people.
Comptroller	2 years.	8,000	By the people.
Treasurer	2 years.	6,000	By the people.
Attorney-General	2 years.	10,000	By the people.
State Engineer	2 years.	8,000	By the people.
Supt. of Public Works	Same as appointing Governor.	6,000	By Gov. and Sen.
Superintendent of Insurance		7,000	By Gov. and Sen.
Superintendent of Banks		7,000	By Gov. and Sen.
Superintendent of Prisons	5 years.	6,000	By Gov. and Sen.
Superintendent of Highways	Pleasure of appointing power.	8,000	By Gov. and Sen.
Commissioner of Health		5,000	By Gov. and Sen.
Commissioner of Agriculture		5,000	By Gov. and Sen.
Commissioner of Excise	5 years.	7,000	By Gov. and Sen.
Commissioner of Labor	4 years.	5,500	By Gov. and Sen.
Supt. of Weights and Measures	Pleasure of appointing power.	3,500	{ By Gov., Lt.-Gov., and Secretary of State. By Gov., Lt.-Gov., and Speaker of Assem.
Sup't of Public Buildings		5,000	
Architect	Pleasure of appointing power.	7,500	By Gov. and Sen.
Regents	12 years.	None.	By Legislature.
Board of Charities	8 years.	Per day.	By Gov. and Sen.
Lunacy Commissioners	6 years.	5,000-7,500	By Gov. and Sen.
Prison Commissioners	8 years.	Per day.	By Gov. and Sen.
Port Wardens	3 years.	Fees.	By Gov. and Sen.
Tax Commissioners	3 years.	6,000	By Gov. and Sen.
Quarantine Commissioners	3 years.	2,500	By Gov. and Sen.
Civil Service Commissioners	Indefinite.	3,000	By Gov. and Sen.
Public Service Commissioners	5 years.	15,000	By Gov. and Sen.
State Conservation Commissioners	0 years.	10,000	By Gov. and Sen.
<i>Judiciary.</i>			
Judges of Court of Appeals	14 years.	13,700	By the people.
Supreme Court Justices	14 years.	10,000-17,500	By the people.
County Judge	6 years.	{ Fixed by Legis. Varies.	By the people.
Surrogate	6 years.		By the people.
Justice of the Peace	4 years.	Fees.	By the people.
Judges of Gen. Sess., N. Y. C.	14 years.	17,500	By the people.
Justices of City Court, N. Y. C.	10 years.	12,000	By the people.
Municipal C't Justices, N. Y. C.	10 years.	8,000	By the people.
Court of Special Sess., N. Y. C.	10 years.	9,000-10,000	Appointed by Mayor.

STATE AND LOCAL OFFICERS (*Continued*).

NAMES.	Term of Office.	Salaries.	How Chosen.
<i>Judiciary (continued).</i>			
City Magistrates, N. Y. C.	10 years.	\$7,000-8,000	{ Appointed by Mayor. Some elected. Elected by people. By Gov. and Sen.
Coroner.	3 years.	Fees.	
Judges of Board of Claims.	6 years.	7,500	
<i>County.</i>			
Supervisor (see below).	2 years.	Per day.	Elected by people.
Sheriff.	3 years.	Fees.	Elected by people.
County Clerk.	3 years.	Fees.	Elected by people.
County Treasurer.	3 years.	Varies.	Elected by people.
District Attorney.	3 years.	Varies.	Elected by people.
Superintendents of Poor.	3 years.	Varies.	Elected by people.
Superintendent of Highways.	4 years.	Varies.	{ By Board of Supervisors. By Town School Directors of his district.
District Superintendent of Schools	5 years.	1,500	
<i>Town.</i>			
Supervisor.	2 years.	Per day.	By the people.
Town Clerk.	2 years.	Fees.	By the people.
Collector.	2 years.	Percentage.	By the people.
Assessors.	2 years.	Per day.	By the people.
Commissioner of Highways.	2 years.	Per day.	By the people.
Overseers of Poor.	2 years.	Per day.	By the people.
Constables.	2 years.	Fees.	By the people.
Inspectors of Elections.	2 years.	Per day.	By the people.
<i>Village.</i>			
Board of Trustees.	2 years.	None.	By the people.
Village President.	1 year.	None.	By the people.
Treasurer.	1 year.	Varies.	By the people.
Clerk.	1 year.	Varies.	By the people.
Assessors.	1 year.	Per day.	By the people.
Collector.	1 year.	Percentage.	By the people.
Board of Health.	1 year.	None.	By the Trustees.
Street Commissioner.	1 year.	Varies.	By the people.
Fire Commissioner.	1 year.	None.	By the people.
Water Commissioner.	1 year.	None.	By the people.
Light Commissioner.	1 year.	None.	By the people.
Police Justice.	4 years.	Fees.	By the people.
<i>New York City.</i>			
Aldermen.	2 years.	\$2,000	By the people.
President of Board of Aldermen. .	4 years.	5,000	By the people.
City Clerk.	6 years.	8,000	{ By Board of Aldermen.
Borough Presidents.	4 years.	5,000-7,500	
Mayor.	4 years.	15,000	By the people.
Commissioner of Accounts.	{ Pleasure of Mayor.	5,000	By the Mayor.
Civil Service Commissioners.		5,000-6,000	By the Mayor.
Corporation Counsel.	"	15,000	By the Mayor.
Commissioner of Police.	5 years.	7,500	By the Mayor.
Commissioner of Water Supply, Gas, and Electricity.	{ Pleasure of Mayor.	7,500	By the Mayor.
Commissioner of Street Cleaning.		"	7,500
Commissioner of Bridges.	"	7,500	By the Mayor.
Commissioners of Parks.	"	5,000	By the Mayor.
Commissioner of Charities.	"	7,500	By the Mayor.
Commissioner of Correction.	"	7,500	By the Mayor.
Fire Commissioner.	"	7,500	By the Mayor.

STATE AND LOCAL OFFICERS (*Concluded*).

NAMES.	Term of Office.	Salaries.	How Chosen.
<i>New York City (continued).</i>			
Commissioner of Docks.....	Pleasure of Mayor	\$6,000	By the Mayor.
Commissioners of Taxes.....	"	7,000-8,000	By the Mayor.
Board of Education.....	5 years.	None.	By the Mayor.
City Superintendent of Schools..	6 years.	10,000	By Board of Education.
Associate Superintendents.....	6 years.	6,500	By Board of Education.
Superintendent of School B'ldgs..	6 years.	10,000	By Board of Education.
Superintendent of Sch'l Supplies..	6 years.	7,500	By Board of Education.
Supervisor of Lectures.....	6 years.	6,500	By Board of Education.
Commissioner of Health.....	{ Pleasure of Mayor.	7,500	By the Mayor.
Tenement House Commissioner..	"	7,500	By the Mayor.
Comptroller.....	4 years.	15,000	By the people.
Chamberlain.....	{ Pleasure of Mayor.	12,000	By the Mayor.
Judges (see Judiciary).....	"
Superintendents of Buildings...{	Pleasure of Boro. President	2,500-5,000	By Borough President.
Commissioners of Public Works..	"	Varies.	By Borough President.
<i>Buffalo.</i>			
Councilmen.....	4 years.	1,000	By the people.
Aldermen.....	2 years.	1,000	By the people.
City Clerk.....	1 year.	3,000	By Common Council.
Mayor.....	4 years.	5,000	By the people.
Comptroller.....	4 years.	4,000	By the people.
Treasurer.....	4 years.	5,000	By the people.
Assessors.....	6 years.	5,000	By the people.
Corporation Counsel.....	4 years.	5,000	By the people.
Commissioner of Public Works..	4 years.	10,000	By the people.
City Superintendent of Schools..	4 years.	7,500	By the people.
Overseer of the Poor.....	4 years.	3,500	By the people.
Police Commissioners.....	6 years.	2,500	By the Mayor.
Commissioner of Health.....	5 years.	5,000	By the Mayor.
Fire Commissioners.....	6 years.	1,800	By the Mayor.
Park Commissioners.....	6 years.	None.	By the Mayor.
Examiners of Schools.....	5 years.	1,000	By the Mayor.
City Court Judges.....	6 years.	3,600-4,000	By the people.
Children's Court Judge.....	10 years.	3,600	By the people.
<i>Education.</i>			
State Commissioner.....	{ Pleasure of the Regents.	10,000	By the Regents.
Assistant Commissioners.....	{ Pleasure of State Comm'r.	5,000	{ By State Commissioner and Regents.
School Trustees.....	1-3 years.	None.	By the people.
Clerk.....	1 year.	Varies.	By the people.
Collector.....	1 year.	Varies.	By the people.
Treasurer.....	1 year.	Varies.	By the people.
School Directors.....	5 years.	Per day.	By the people.
District Superintendent.....	5 years.	1,500+	By School Directors.
School Board.....	Varies.	None.	By the people.
Superintendent.....	Varies.	Varies.	By the Board.
<i>Constitutional Convention.</i>			
Delegates.....	Indefinite.	{ 1,500+ mileage.	By the people.

THE CONSTITUTION

AS ADOPTED NOVEMBER 6, 1894, AND AS AMENDED TO 1910.

WE, THE PEOPLE of the State of New York, grateful to Almighty God for our Freedom, in order to secure its blessings, DO ESTABLISH THIS CONSTITUTION.

ARTICLE I.

NO PERSON TO BE DISFRANCHISED.

SECTION 1. No member of this State shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers.

TRIAL BY JURY.

SEC. 2. The trial by jury in all cases in which it has been heretofore used shall remain inviolate forever; but a jury trial may be waived by the parties in all civil cases in the manner to be prescribed by law.

RELIGIOUS LIBERTY.

SEC. 3. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State to all mankind; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

WRIT OF HABEAS CORPUS.

SEC. 4. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require its suspension.

BAIL, FINES.

SEC. 5. Excessive bail shall not be required nor excessive fines imposed, nor shall cruel and unusual punishments be inflicted, nor shall witnesses be unreasonably detained.

GRAND JURY—BILL OF RIGHTS.

SEC. 6. No person shall be held to answer for a capital or otherwise infamous crime (except in cases of impeachment, and in cases of militia when in actual service; and the land and naval forces in time of war, or which this State may keep with the consent of Congress in time of peace, and in cases of petit larceny, under the regulation of the Legislature), unless on presentment or indictment of a grand jury, and in any trial in any court whatever the party accused shall be allowed to appear and defend in person and with counsel as in civil actions. No person shall be subject to be twice put in jeopardy for the same offense; nor shall he be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty or property without due process of law; nor shall private property be taken for public use, without just compensation.

PRIVATE PROPERTY—PRIVATE ROADS.

SEC. 7. When private property shall be taken for any public use, the compensation to be made therefor, when such compensation is not made by the State, shall be ascertained by a jury, or by not less than three commissioners appointed by a court of record, as shall be prescribed by law. Private roads may be opened in the manner to be prescribed by law; but in every case the necessity of the road and the amount of all damage to be sustained by the opening thereof shall be first determined by a jury of freeholders, and such amount, together with the expenses of the proceeding, shall be paid by the person to be benefited. General laws may be passed permitting the owners or occupants of agricultural lands to construct and maintain for the drainage thereof, necessary drains, ditches and dikes upon the lands of others, under proper restrictions and with just compensation, but no special laws shall be enacted for such purposes.

FREEDOM OF SPEECH AND OF THE PRESS.

SEC. 8. Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable

ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

RIGHT OF PETITION—DIVORCES—LOTTERIES.

SEC. 9. No law shall be passed abridging the right of the people peaceably to assemble and to petition the government, or any department thereof; nor shall any divorce be granted otherwise than by due judicial proceedings; nor shall any lottery or the sale of lottery tickets, pool-selling, book-making, or any other kind of gambling hereafter be authorized or allowed within this State; and the Legislature shall pass appropriate laws to prevent offenses against any of the provisions of this section.

RIGHT OF PROPERTY IN LANDS—ESCHEATS.

SEC. 10. The people of this State, in their right of sovereignty, are deemed to possess the original and ultimate property in and to all lands within the jurisdiction of the State; and all lands the title to which shall fail, from a defect of heirs, shall revert, or escheat to the people.

FEUDAL TENURES ABOLISHED.

SEC. 11. All feudal tenures of every description, with all their incidents, are declared to be abolished, saving, however, all rents and services certain which at any time heretofore have been lawfully created or reserved.

ALLODIAL TENURE.

SEC. 12. All lands within this State are declared to be allodial, so that, subject only to the liability to escheat, the entire and absolute property is vested in the owners, according to the nature of their respective estates.

CERTAIN LEASES INVALID.

SEC. 13. No lease or grant of agricultural land, for a longer period than twelve years, hereafter made, in which shall be reserved any rent or service of any kind, shall be valid.

FINES AND QUARTER SALES ABOLISHED.

SEC. 14. All fines, quarter sales, or other like restraints upon alienation reserved in any grant of land, hereafter to be made, shall be void.

SALE OF LANDS.

SEC. 15. No purchase or contract for the sale of lands in this State made since the fourteenth day of October, one thousand

seven hundred and seventy-five; or which may hereafter be made, of, or with the Indians, shall be valid, unless made under the authority, and with the consent of the Legislature.

OLD COLONY LAWS AND ACTS OF THE LEGISLATURE—COMMON LAW—
COMMISSIONERS TO BE APPOINTED—THEIR DUTIES.

SEC. 16. Such parts of the common law, and of the acts of the Legislature of the colony of New York, as together did form the law of the said colony, on the nineteenth day of April, one thousand seven hundred and seventy-five, and the resolutions of the Congress of the said colony, and of the convention of the State of New York, in force on the twentieth day of April, one thousand seven hundred and seventy-seven, which have not since expired, or been repealed or altered; and such acts of the Legislature of this State as are now in force, shall be and continue the law of this State, subject to such alterations as the Legislature shall make concerning the same. But all such parts of the common law, and such of the said acts, or parts thereof, as are repugnant to this Constitution, are hereby abrogated.

GRANTS OF LAND SINCE 1775—PRIOR GRANTS.

SEC. 17. All grants of land within the State, made by the king of Great Britain, or persons acting under his authority, after the fourteenth day of October, one thousand seven hundred and seventy-five, shall be null and void; but nothing contained in this Constitution shall affect any grants of land within this State, made by the authority of the said king or his predecessors, or shall annul any charters to bodies politic and corporate, by him or them made, before that day; or shall affect any such grants or charters since made by this State, or by persons acting under its authority; or shall impair the obligation of any debts contracted by the State, or individuals, or bodies corporate, or any other rights of property, or any suits, actions, rights of action, or other proceedings in courts of justice.

SEC. 18. The right of action now existing to recover damages for injuries resulting in death, shall never be abrogated; and the amount recoverable shall not be subject to any statutory limitation.

ARTICLE II.

QUALIFICATION OF VOTERS.

SECTION 1. Every male citizen of the age of twenty-one years, who shall have been a citizen for ninety days, and an inhabitant

of this State one year next preceding an election, and the last four months a resident of the county, and for the last thirty days a resident of the election district in which he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elective by the people; and upon all questions which may be submitted to the vote of the people, provided that in time of war no elector in the actual military service of the State, or of the United States, in the army or navy thereof, shall be deprived of his vote by reason of his absence from such election district; and the Legislature shall have power to provide the manner in which and the time and place at which such absent electors may vote, and for the return and canvass of their votes in the election districts in which they respectively reside.

PERSONS EXCLUDED FROM THE RIGHT OF SUFFRAGE, ETC.

SEC. 2. No person who shall receive, accept, or offer to receive, or pay, offer or promise to pay, contribute, offer or promise to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at an election, or who shall make any promise to influence the giving or withholding any such vote, or who shall make or become directly or indirectly interested in any bet or wager depending upon the result of any election, shall vote at such election; and upon challenge for such cause, the person so challenged, before the officers authorized for that purpose shall receive his vote, shall swear or affirm before such officers that he has not received or offered, does not expect to receive, has not paid, offered or promised to pay, contributed, offered or promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation or reward for the giving or withholding a vote at such election, and has not made any promise to influence the giving or withholding of any such vote, nor made or become directly or indirectly interested in any bet or wager depending upon the result of such election. The Legislature shall enact laws excluding from the right of suffrage all persons convicted of bribery or of any infamous crime.

CERTAIN EMPLOYMENTS NOT TO AFFECT RESIDENCE OF VOTERS

SEC. 3. For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor

while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse, or other asylum, or institution wholly or partly supported at public expense, or by charity; nor while confined in any public prison.

LAWS TO BE PASSED.

SEC. 4. Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established, and for the registration of voters; which registration shall be completed at least ten days before each election. Such registration shall not be required for town and village elections except by express provision of law. In cities and villages having five thousand inhabitants or more, according to the last preceding State enumeration of inhabitants, voters shall be registered upon personal application only; but voters not residing in such cities or villages shall not be required to apply in person for registration at the first meeting of the officers having charge of the registry of voters.

ELECTION TO BE BY BALLOT.

SEC. 5. All elections by the citizens, except for such town officers as may by law be directed to be otherwise chosen, shall be by ballot, or by such other method as may be prescribed by law, provided that secrecy in voting be preserved.

SEC. 6. All laws creating, regulating or affecting boards of officers charged with the duty of registering voters, or of distributing ballots at the polls to voters, or of receiving, recording or counting votes at elections, shall secure equal representation of the two political parties which, at the general election next preceding that for which such boards or officers are to serve, cast the highest and the next highest number of votes. All such boards and officers shall be appointed or elected in such manner, and upon the nomination of such representatives of said parties respectively, as the Legislature may direct. Existing laws on this subject shall continue until the Legislature shall otherwise provide. This section shall not apply to town meetings, or to village elections.

ARTICLE III.

LEGISLATIVE POWERS.

SECTION I. The legislative power of this State shall be vested in the Senate and Assembly.

SENATE AND ASSEMBLY, NUMBER OF MEMBERS.

SEC. 2. The Senate shall consist of fifty members, except as hereinafter provided. The senators elected in the year one thousand eight hundred and ninety-five shall hold their offices for three years, and their successors shall be chosen for two years. The Assembly shall consist of one hundred and fifty members who shall be chosen for one year.

SENATE DISTRICTS.

SEC. 3. The State shall be divided into fifty districts to be called senate districts, each of which shall choose one senator. The districts shall be numbered from one to fifty, inclusive. [Enumeration and boundaries follow here.]

ENUMERATION TO BE TAKEN EVERY TEN YEARS—SENATE DISTRICTS,
HOW ALTERED

SEC. 4. An enumeration of the inhabitants of the State shall be taken under the direction of the Secretary of State, during the months of May and June, in the year one thousand nine hundred and five, and in the same months every tenth year thereafter; and the said districts shall be so altered by the Legislature at the first regular session after the return of every enumeration, that each senate district shall contain as nearly as may be an equal number of inhabitants, excluding aliens, and be in as compact form as practicable, and shall remain unaltered until the return of another enumeration, and shall at all times consist of contiguous territory, and no county shall be divided in the formation of a senate district except to make two or more senate districts wholly in such county. No town, and no block in a city inclosed by streets or public ways, shall be divided in the formation of senate districts; nor shall any district contain a greater excess in population over an adjoining district in the same county, than the population of a town or block therein, adjoining such district. Counties, towns or blocks which, from their location, may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants, excluding aliens.

No county shall have four or more senators unless it shall have a full ratio for each senator. No county shall have more than one-third of all the senators; and no two counties or the territory thereof as now organized, which are adjoining counties, or which are separated only by public waters, shall have more than one-half of all the senators.

The ratio for apportioning senators shall always be obtained by dividing the number of inhabitants, excluding aliens, by fifty, and the Senate shall always be composed of fifty members, except that if any county having three or more senators at the time of any apportionment shall be entitled on such ratio to an additional senator or senators, such additional senator or senators shall be given to such county in addition to the fifty senators, and the whole number of senators shall be increased to that extent.

MEMBERS OF ASSEMBLY, NUMBER OF, ETC.

SEC. 5. The members of the Assembly shall be chosen by single districts, and shall be apportioned by the Legislature at the first regular session after the return of every enumeration among the several counties of the State, as nearly as may be according to the number of their respective inhabitants, excluding aliens. Every county heretofore established and separately organized, except the county of Hamilton, shall always be entitled to one member of assembly, and no county shall hereafter be erected unless its population shall entitle it to a member. The county of Hamilton shall elect with the county of Fulton, until the population of the county of Hamilton shall, according to the ratio, entitle it to a member. But the Legislature may abolish the said county of Hamilton and annex the territory thereof to some other county or counties.

The quotient obtained by dividing the whole number of inhabitants of the State, excluding aliens, by the number of members of assembly, shall be the ratio for apportionment, which shall be made as follows: One member of assembly shall be apportioned to every county, including Fulton and Hamilton as one county, containing less than the ratio and one-half over. Two members shall be apportioned to every other county. The remaining members of assembly shall be apportioned to the counties having more than two ratios according to the number of inhabitants, excluding aliens. Members apportioned on remainders shall be apportioned to the counties having the highest remainders in the order thereof respectively. No county shall have more members of assembly than a county having a greater number of inhabitants, excluding aliens. [Enumeration follows here.]

In any county entitled to more than one member, the board of supervisors, and in any city embracing an entire county and having no board of supervisors, the common council, or if there be none, the body exercising the powers of a common council, shall assemble on the second Tuesday of June, one thousand eight hundred and

ninety-five, and at such times as the Legislature making an apportionment shall prescribe, and divide such counties into assembly districts as nearly equal in number of inhabitants, excluding aliens, as may be, of convenient and contiguous territory in as compact form as practicable, each of which shall be wholly within a senate district formed under the same apportionment equal to the number of members of assembly to which such county shall be entitled, and shall cause to be filed in the office of the Secretary of State and of the clerk of such county; a description of such districts, specifying the number of each district and of the inhabitants thereof, excluding aliens, according to the last preceding enumeration; and such apportionment and districts shall remain unaltered until another enumeration shall be made, as herein provided; but said division of the city of Brooklyn and the county of Kings to be made on the second Tuesday of June, one thousand eight hundred and ninety-five, shall be made by the common council of said city and the board of supervisors of said county, assembled in joint session. In counties having more than one senate district, the same number of assembly districts shall be put in each senate district unless the assembly districts cannot be evenly divided among the senate districts of any county, in which case one more assembly district shall be put in the senate district in such county having the largest, or one less assembly district shall be put in the senate district in such county having the smallest number of inhabitants, excluding aliens, as the case may require. No town, and no block in a city inclosed by streets or public ways, shall be divided in the formation of assembly districts, nor shall any district contain a greater excess in population over an adjoining district in the same senate district, than the population of a town or block therein adjoining such assembly district. Towns or blocks which, from their location, may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants, excluding aliens; but in the division of cities under the first apportionment, regard shall be had to the number of inhabitants, excluding aliens, of the election districts according to the State enumeration of one thousand eight hundred and ninety-two, so far as may be, instead of blocks. Nothing in this section shall prevent the division, at any time, of counties and towns, and the erection of new towns by the Legislature.

An apportionment by the Legislature, or other body, shall be subject to review by the Supreme Court, at the suit of any citizen, under such reasonable regulations as the Legislature may prescribe;

parliamentary practice and governs the House arbitrarily; but it must be remembered that he is executing the will of the majority.

Counting a
quorum.

Speaker Reed used an effective method to stop filibustering in the 51st Congress, when the Republican majority was very small. In order to prevent the passage of bills, members of the minority would refuse to vote when the roll was called. As it was often impossible to secure the attendance of all members of the party in power, the roll-call would show less than a majority "present." Hence business would be stopped under the point of order "no quorum." At such a juncture, Speaker Reed directed the clerk to count as present members sitting in their seats who had not voted. Thus a quorum was secured and bills were passed. The Supreme Court has pronounced this procedure legal, and subsequent Congresses have followed the practice.

Recogni-
tion.

(2) Much of the power given to the Speaker would be useless but for the power of *recognition*. As in other assemblies, before any one can speak he must be recognized by the chair. The Speaker may recognize whom he pleases, not necessarily the one who first addresses him, except on "Calendar Wednesday," and when bills are called up from the Unanimous Consent Calendar, and in the case of bills taken out of the hands of a committee. Consequently, at other times if a member wishes to push his bill through the House, it is necessary to consult the Speaker and obtain his consent. He will then be recognized at the time agreed upon. By a similar arrangement other members will secure the right to debate the bill.

Until the long session of the 61st Congress (March, 1910), the Speaker's power also included that of appointing all committees, including the Committee on Rules, and he was chairman of that committee. These facts gave him almost dictatorial power over the bills that should come up for discussion and over their fate as well. This power as exercised by Speaker Cannon resulted in a revolt in which a number of Republican members (known as "insurgents") joined with the Democratic Representatives to

outvote the "regular" Republicans, and thus secured amendments to the Rules. The constitution of the Committee on Rules was changed (see above) and the Speaker was made ineligible for a position upon it.

It was claimed that these changes were necessary to take the control of the House out of the hands of a small body of men. On the other hand, the previous arrangement was regarded by some as essential to prevent filibustering and to expedite business.

Procedure in the Senate differs from that in the House in three important respects. (1) The presiding officer, whether he be the Vice-President or the President *pro tempore*, has less power than the Speaker. He is more impartial in his recognition of both sides, therefore filibustering is easier in the Senate than in the House.

Comparison of
Senate and
House
procedure.

(2) There is less restriction on the freedom of debate in the Senate; consequently important measures are passed less promptly than in the House. In fact, there is no means by which debate can be closed in the Senate.

(3) The Senate has a higher standard of decorum than that which prevails in the House. Senators are expected to heed carefully one another's rights and wishes, and to avoid extreme exhibitions of party spirit. The Senate is, therefore, a more quiet and orderly body than the House; in it angry debate and violent behavior are of rare occurrence. In its methods of procedure the Senate is more deliberative and less business-like than the House.

In State legislatures throughout the Union the method of procedure is substantially the same as that which we have seen at work in Congress. But this system, sometimes called the "Committee system," is found nowhere else. Every national legislative body in the world except our Congress works under the "Cabinet system" of government. This may be best seen in the English Government, where it was first developed.

Cabinet
system of
government.

The supreme legislature of England is Parliament, composed of the House of Commons and the House of Lords. Although England is nominally a kingdom, the monarch has little real

The
English
Cabinet
system.

RESTRICTION AS TO PRIVATE AND LOCAL BILLS.

SEC. 16. No private or local bills which may be passed by the Legislature shall embrace more than one subject, and that shall be expressed in the title.

EXISTING LAW NOT TO BE MADE A PART OF AN ACT EXCEPT BY
INSERTING IT THEREIN.

SEC. 17. No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of said act, or which shall enact that any existing law, or part thereof, shall be applicable, except by inserting it in such act.

PRIVATE AND LOCAL BILLS NOT TO BE PASSED IN CERTAIN CASES.

SEC. 18. The Legislature shall not pass a private or local bill in any of the following cases:

Changing the names of persons.

Laying out, opening, altering, working or discontinuing roads, highways or alleys, or for draining swamps or other low lands.

Locating or changing county seats.

Providing for changes of venue in civil or criminal cases.

Incorporating villages.

Providing for election of members of boards of supervisors.

Selecting, drawing, summoning or impaneling grand or petit jurors.

Regulating the rate of interest on money.

The opening and conducting of elections or designating places of voting.

Creating, increasing or decreasing fees, percentage or allowances of public officers, during the term for which said officers are elected or appointed.

Granting to any corporation, association or individual the right to lay down railroad tracks.

Granting to any private corporation, association or individual any exclusive privilege, immunity or franchise whatever.

Granting to any person, association, firm or corporation an exemption from taxation on real or personal property.¹

Providing for building bridges, and chartering companies for such purposes, except on the Hudson river below Waterford, and on the East river, or over the waters forming a part of the boundaries of the State.

The Legislature shall pass general laws providing for the cases

¹ As amended November 5, 1901; in effect January 1, 1902.

enumerated in this section, and for all other cases which in its judgment may be provided for by general laws. But no law shall authorize the construction or operation of a street railroad except upon the condition that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having the control of that portion of a street or highway upon which it is proposed to construct or operate such railroad be first obtained, or in case the consent of such property owners can not be obtained, the Appellate Division of the Supreme Court, in the department in which it is proposed to be constructed, may upon application, appoint three commissioners, who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners.

PRIVATE CLAIMS NOT TO BE AUDITED.

SEC. 19. The Legislature shall neither audit nor allow any private claim or account against the State, but may appropriate money to pay such claims as shall have been audited and allowed according to law.

TWO-THIRD BILLS.

SEC. 20. The assent of two-thirds of the members elected to each branch of the Legislature shall be requisite to every bill appropriating the public moneys or property for local or private purposes.

USE OF PUBLIC MONEYS.

SEC. 21. No money shall ever be paid out of the treasury of this State or any of its funds, or any of the funds under its management, except in pursuance of an appropriation by law; nor unless such payment be made within two years next after the passage of such appropriation act; and every such law making a new appropriation, or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object to which it is to be applied; and it shall not be sufficient for such law to refer to any other law to fix such sum.

SEC. 22. No provision or enactment shall be embraced in the annual appropriation or supply bill, unless it relates specifically to some particular appropriation in the bill; and any such provision or enactment shall be limited in its operation to such appropriation.

CERTAIN SECTIONS NOT TO APPLY TO CERTAIN BILLS.

SEC. 23. Sections seventeen and eighteen of this article shall not apply to any bill, or the amendments to any bill, which shall be reported to the Legislature by commissioners who have been appointed pursuant to law to revise the statutes.

BILL IMPOSING A TAX, MANNER OF PASSING.

SEC. 24. Every law which imposes, continues or revives a tax shall distinctly state the tax and the object to which it is to be applied, and it shall not be sufficient to refer to any other law to fix such tax or object.

SEC. 25. On the final passage, in either house of the Legislature, of any act which imposes, continues or revives a tax, or creates a debt or charge, or makes, continues or revives any appropriation of public or trust money or property, or releases, discharges or commutes any claim or demand of the State, the question shall be taken by yeas and nays, which shall be duly entered upon the journals, and three-fifths of all the members elected to either house shall, in all such cases, be necessary to constitute a quorum therein.

BOARD OF SUPERVISORS.

SEC. 26.¹ There shall be in each county, except in a county wholly included in a city, a board of supervisors, to be composed of such members and elected in such manner and for such period as is or may be provided by law. In a city which includes an entire county, or two or more entire counties, the powers and duties of a board of supervisors may be devolved upon the municipal assembly, common council, board of aldermen, or other legislative body of the city.

LOCAL LEGISLATIVE POWERS.

SEC. 27.² The Legislature shall, by general laws, confer upon the boards of supervisors of the several counties of the State such further powers of local legislation and administration as the Legislature may, from time to time, deem expedient, and in counties which now have, or may hereafter have, county auditors or other fiscal officers, authorized to audit bills, accounts, charges, claims or demands against the county, the Legislature may confer such powers upon said auditors or fiscal officers as the Legislature may, from time to time, deem expedient.

¹ As amended November 7, 1899; in effect January 1, 1900.

² As amended November 2, 1909; in effect January 1, 1910.

NO EXTRA COMPENSATION TO BE GRANTED.

SEC. 28. The Legislature shall not, nor shall the common council of any city, nor any board of supervisors, grant any extra compensation to any public officer, servant, agent or contractor.

OCCUPATION AND EMPLOYMENT OF CONVICTS.

SEC. 29. The Legislature shall, by law, provide for the occupation and employment of prisoners sentenced to the several state prisons, penitentiaries, jails and reformatories in the State; and on and after the first day of January, in the year one thousand eight hundred and ninety-seven, no person in any such prison, penitentiary, jail or reformatory, shall be required or allowed to work, while under sentence thereto, at any trade, industry or occupation, wherein or whereby his work, or the product or profit of his work, shall be farmed out, contracted, given or sold to any persons, firm, association or corporation. This section shall not be construed to prevent the Legislature from providing that convicts may work for, and that the products of their labor may be disposed of to, the State or any political division thereof, or for or to any public institution owned or managed and controlled by the State, or any political division thereof.

ARTICLE IV.

EXECUTIVE POWER, HOW VESTED.

SECTION 1. The executive power shall be vested in a Governor, who shall hold his office for two years; a Lieutenant-Governor shall be chosen at the same time, and for the same term. The Governor and Lieutenant-Governor elected next preceding the time when this section shall take effect, shall hold office until and including the thirty-first day of December, one thousand eight hundred and ninety-six, and their successors shall be chosen at the general election in that year.

QUALIFICATIONS OF GOVERNOR.

SEC. 2. No person shall be eligible to the office of Governor or Lieutenant-Governor, except a citizen of the United States, of the age of not less than thirty years, and who shall have been five years next preceding his election a resident of this State.

ELECTION OF GOVERNOR AND LIEUTENANT-GOVERNOR.

SEC. 3. The Governor and Lieutenant-Governor shall be elected at the times and places of choosing members of the Assembly. The persons respectively having the highest number of votes for Governor and Lieutenant-Governor shall be elected; but in case two or more shall have an equal and the highest number of votes for Governor, or for Lieutenant-Governor, the two houses of the Legislature at its next annual session shall forthwith, by joint ballot, choose one of the said persons so having an equal and the highest number of votes for Governor or Lieutenant-Governor.

DUTIES AND POWERS OF THE GOVERNOR.—HIS COMPENSATION.

SEC. 4. The Governor shall be Commander-in-Chief of the military and naval forces of the State. He shall have power to convene the Legislature, or the Senate only, on extraordinary occasions. At extraordinary sessions no subject shall be acted upon except such as the Governor may recommend for consideration. He shall communicate by message to the Legislature at every session the condition of the State, and recommend such matters to them as he shall judge expedient. He shall transact all necessary business with the officers of government, civil and military. He shall expedite all such measures as may be resolved upon by the Legislature, and shall take care that the laws are faithfully executed. He shall receive for his services an annual salary of ten thousand dollars, and there shall be provided for his use a suitable and furnished executive residence.

PARDONING POWERS VESTED IN THE GOVERNOR.

SEC. 5. The Governor shall have the power to grant reprieves, commutations and pardons after conviction, for all offenses except treason and cases of impeachment, upon such conditions and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, he shall have power to suspend the execution of the sentence, until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon, or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall annually communicate to the Legislature each case of reprieve, commutation or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the commutation, pardon or reprieve.

POWERS OF GOVERNOR TO DEVOLVE ON LIEUTENANT-GOVERNOR.

SEC. 6. In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the powers and duties of the said office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant-Governor for the residue of the term, or until the disability shall cease. But when the Governor shall, with the consent of the Legislature, be out of the State, in time of war, at the head of a military force thereof, he shall continue Commander-in-Chief of all the military force of the State.

QUALIFICATIONS OF LIEUTENANT-GOVERNOR.

SEC. 7. The Lieutenant-Governor shall possess the same qualifications of eligibility for office as the Governor. He shall be president of the Senate, but shall have only a casting vote therein. If during a vacancy of the office of Governor, the Lieutenant-Governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the State, the President of the Senate shall act as Governor until the vacancy be filled or the disability shall cease; and if the President of the Senate for any of the above causes shall become incapable of performing the duties pertaining to the office of Governor, the Speaker of the Assembly shall act as Governor until the vacancy be filled or the disability shall cease.

COMPENSATION OF LIEUTENANT-GOVERNOR.

SEC. 8. The Lieutenant-Governor shall receive for his services an annual salary of five thousand dollars, and shall not receive or be entitled to any other compensation, fee or perquisite, for any duty or service he may be required to perform by the Constitution or by law.

BILLS TO BE PRESENTED TO THE GOVERNOR FOR SIGNATURE.

SEC. 9. Every bill which shall have passed the Senate and Assembly shall, before it becomes a law, be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it shall have originated, which shall enter the objections at large on the journal, and proceed to reconsider it. If after such reconsideration, two-thirds of the members elected to that house shall agree to pass the bill, it shall be sent,

together with the objections, to the other house by which it shall likewise be reconsidered; and if approved by two-thirds of the members elected to that house, it shall become a law notwithstanding the objections of the Governor. In all such cases, the votes in both houses shall be determined by yeas and nays, and the names of the members voting shall be entered on the journal of each house respectively. If any bill shall not be returned by the Governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Legislature shall, by their adjournment, prevent its return, in which case it shall not become a law without the approval of the Governor. No bill shall become a law after the final adjournment of the Legislature, unless approved by the Governor within thirty days after such adjournment. If any bill presented to the Governor contain several items of appropriation of money, he may object to one or more of such items while approving of the other portion of the bill. In such case, he shall append to the bill, at the time of signing it, a statement of the items to which he objects; and the appropriation so objected to shall not take effect. If the Legislature be in session, he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately considered. If on reconsideration one or more of such items be approved by two-thirds of the members elected to each house, the same shall be part of the law, notwithstanding the objections of the Governor. All the provisions of this section, in relation to bills not approved by the Governor, shall apply in cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.

ARTICLE V.

STATE OFFICERS.

SECTION 1. The Secretary of State, Comptroller, Treasurer, Attorney-General and State Engineer and Surveyor shall be chosen at a general election at the times and places of electing the Governor and Lieutenant-Governor, and shall hold their offices for two years, except as provided in section two of this article. Each of the officers in this article named, excepting the Speaker of the Assembly, shall, at stated times during his continuance in office, receive for his services a compensation which shall not be increased or diminished during the term for which he shall have been elected; nor shall he

receive to his use any fee or perquisites of office or other compensation. No person shall be elected to the office of State Engineer and Surveyor who is not a practical civil engineer.

SEC. 2. The first election of the Secretary of State, Comptroller, Treasurer, Attorney-General and State Engineer and Surveyor, pursuant to this article shall be held in the year one thousand eight hundred and ninety-five, and their terms of office shall begin on the first day of January following, and shall be for three years. At the general election in the year one thousand eight hundred and ninety-eight, and every two years thereafter, their successors shall be chosen for the term of two years.

SUPERINTENDENT OF PUBLIC WORKS.

SEC. 3. A Superintendent of Public Works shall be appointed by the Governor, by and with the advice and consent of the Senate, and hold his office until the end of the term of the Governor by whom he was nominated, and until his successor is appointed and qualified. He shall receive a compensation to be fixed by law. He shall be required by law to give security for the faithful execution of his office before entering upon the duties thereof. He shall be charged with the execution of all laws relating to the repair and navigation of the canals, and also of those relating to the construction and improvement of the canals, except so far as the execution of the laws relating to such construction or improvement shall be confided to the State Engineer and Surveyor; subject to the control of the Legislature, he shall make the rules and regulations for the navigation or use of the canals. He may be suspended or removed from office by the Governor, whenever, in his judgment, the public interest shall so require; but in case of the removal of such Superintendent of Public Works from office, the Governor shall file with the Secretary of State a statement of the cause of such removal, and shall report such removal and the cause thereof to the Legislature at its next session. The Superintendent of Public Works shall appoint not more than three assistant superintendents, whose duties shall be prescribed by him, subject to modification by the Legislature, and who shall receive for their services a compensation to be fixed by law. They shall hold their office for three years, subject to suspension or removal by the Superintendent of Public Works, whenever, in his judgment, the public interest shall so require. Any vacancy in the office of any such assistant superintend-

ents shall be filled for the remainder of the term for which he was appointed, by the Superintendent of Public Works; but in case of the suspension or removal of any such assistant superintendent by him, he shall at once report to the Governor, in writing, the cause of such removal. All other persons employed in the care and management of the canals, except collectors of tolls, and those in the department of the State Engineer and Surveyor, shall be appointed by the Superintendent of Public Works, and be subject to suspension or removal by him. The Superintendent of Public Works shall perform all the duties of the Canal Commissioners, and Board of Canal Commissioners, as now declared by law, until otherwise provided by the Legislature. The Governor, by and with the advice and consent of the Senate, shall have power to fill vacancies in the office of Superintendent of Public Works; if the Senate be not in session, he may grant commissions which shall expire at the end of the next succeeding session of the Senate.

SUPERINTENDENT OF PRISONS.

SEC. 4. A Superintendent of State Prisons shall be appointed by the Governor, by and with the advice and consent of the Senate, and hold his office for five years, unless sooner removed; he shall give security in such amount, and with such sureties as shall be required by law for the faithful discharge of his duties; he shall have the superintendence, management and control of State prisons, subject to such laws as now exist or may hereafter be enacted; he shall appoint the agents, wardens, physicians and chaplains of the prisons. The agent and warden of each prison shall appoint all other officers of such prison, except the clerk, subject to the approval of the same by the Superintendent. The Comptroller shall appoint the clerks of the prisons. The Superintendent shall have all the powers and perform all the duties not inconsistent herewith, which were formerly had and performed by the Inspectors of State Prisons. The Governor may remove the Superintendent for cause at any time, giving to him a copy of the charges against him, and an opportunity to be heard in his defense.

COMMISSIONERS OF THE LAND OFFICE—OF THE CANAL FUND— CANAL BOARD.

SEC. 5. The Lieutenant-Governor, Speaker of the Assembly, Secretary of State, Comptroller, Treasurer, Attorney-General and State Engineer and Surveyor shall be the Commissioners of the Land

Office. The Lieutenant-Governor, Secretary of State, Comptroller, Treasurer and Attorney-General shall be the Commissioners of the Canal Fund. The Canal Board shall consist of the Commissioners of the Canal Fund, the State Engineer and Surveyor, and the Superintendent of Public Works.

POWERS AND DUTIES OF BOARDS.

SEC. 6. The powers and duties of the respective boards, and of the several officers in this article mentioned, shall be such as now are or hereafter may be prescribed by law.

TREASURER MAY BE SUSPENDED BY THE GOVERNOR.

SEC. 7. The Treasurer may be suspended from office by the Governor, during the recess of the Legislature, and until thirty days after the commencement of the next session of the Legislature, whenever it shall appear to him that such Treasurer has, in any particular, violated his duty. The Governor shall appoint a competent person to discharge the duties of the office during such suspension of the Treasurer.

OFFICES ABOLISHED.

SEC. 8. All offices for the weighing, gauging, measuring, culling or inspecting any merchandise, produce, manufacture or commodity whatever, are hereby abolished; and no such office shall hereafter be created by law; but nothing in this section contained shall abrogate any office created for the purpose of protecting the public health or the interests of the State in its property, revenue, tolls or purchases, or of supplying the people with correct standards of weights and measures, or shall prevent the creation of any office for such purposes hereafter.

CIVIL SERVICE LAW.

SEC. 9. Appointments and promotions in the civil service of the State, and of all the civil divisions thereof, including cities and villages, shall be made according to merit and fitness, to be ascertained, so far as practicable, by examinations, which, so far as practicable, shall be competitive; provided, however, that honorably discharged soldiers and sailors from the army and navy of the United States in the late civil war, who are citizens and residents of this State, shall

be entitled to preference in appointment and promotion, without regard to their standing on any list from which such appointment or promotion may be made. Laws shall be made to provide for the enforcement of this section.

ARTICLE VI.

SUPREME COURT, OF WHAT IT SHALL CONSIST, ETC.

SECTION 1. The Supreme Court is continued with general jurisdiction in law and equity, subject to such appellate jurisdiction of the Court of Appeals as now is or may be prescribed by law not inconsistent with this article. The existing judicial districts of the State are continued until changed as hereinafter provided. The Supreme Court shall consist of the justices now in office, and of the judges transferred thereto by the fifth section of this article, all of whom shall continue to be justices of the Supreme Court during their respective terms, and of twelve additional justices who shall reside in and be chosen by the electors of, the several existing judicial districts, three in the first district, three in the second, and one in each of the other districts; and of their successors. The successors of said justices shall be chosen by the electors of the respective judicial districts. The Legislature may alter the judicial districts once after every enumeration under the Constitution, of the inhabitants of the State, and thereupon reapportion the justices to be thereafter elected in the districts so altered.

The Legislature may from time to time increase the number of justices in any judicial district, except that the number of justices in the first and second districts, or in any of the districts into which the second district may be divided, shall not be increased to exceed one justice for each eighty thousand, or fraction over forty thousand of the population thereof, as shown by the last State or Federal census or enumeration, and except that the number of justices in any other district shall not be increased to exceed one justice for each sixty thousand, or fraction over thirty-five thousand of the population thereof, as shown by the last State or Federal census or enumeration. The Legislature may erect out of the Second Judicial District as now constituted another judicial district and apportion the justices in office between the districts, and provide for the election of additional justices in the new district not exceeding the limit herein provided.¹

¹ As amended November 7, 1905; in effect January 1, 1906.

DIVISION OF JUDICIAL DEPARTMENTS.

SEC. 2. The Legislature shall divide the State into four judicial departments. The first department shall consist of the county of New York; the others shall be bounded by county lines, and be compact and equal in population as nearly as may be. Once every ten years the Legislature may alter the judicial departments, but without increasing the number thereof.

There shall be an Appellate Division of the Supreme Court, consisting of seven justices in the first department, and of five justices in each of the other departments. In each department four shall constitute a quorum, and the concurrence of three shall be necessary to a decision. No more than five justices shall sit in any case.

From all the justices elected to the Supreme Court the Governor shall designate those who shall constitute the Appellate Division in each department; and he shall designate the presiding justice thereof, who shall act as such during his term of office, and shall be a resident of the department. The other justices shall be designated for terms of five years or the unexpired portions of their respective terms of office, if less than five years. From time to time as the terms of such designations expire, or vacancies occur, he shall make new designations. A majority of the justices designated to sit in the Appellate Division in each department shall be residents of the department. He may also make temporary designations in case of the absence or inability to act of any justice in the Appellate Division, or in case the presiding justice of any Appellate Division shall certify to him that one or more additional justices are needed for the speedy disposition of the business before it.¹ Whenever the Appellate Division in any department shall be unable to dispose of its business within a reasonable time, a majority of the presiding justices of the several departments at a meeting called by the presiding justice of the department in arrears may transfer any pending appeals from such department to any other department for hearing and determination. No justice of the Appellate Division shall, within the department to which he may be designated to perform the duties of an appellate justice,² exercise any of the powers of a justice of the Supreme Court, other than those of a justice out of court, and those pertaining to the Appellate Division or to the hearing and decision of motions submitted by consent of counsel, but any such

¹ As amended November 7, 1899; in effect January 1, 1900.

² As amended November 7, 1905; in effect January 1, 1906.

justice when not actually engaged in performing the duties of such appellate justice in the department to which he is designated may hold any term of the Supreme Court and exercise any of the powers of a justice of the Supreme Court in any county or judicial district in any other department of the State.¹ From and after the last day of December eighteen hundred and ninety-five, the Appellate Division shall have the jurisdiction now exercised by the Supreme Court at its General Terms and by the General Terms of the Court of Common Pleas for the City and County of New York, the Superior Court of the City of New York, the Superior Court of Buffalo and the City of Brooklyn, and such additional jurisdiction as may be conferred by the Legislature. It shall have power to appoint and remove a reporter.

The justices of the Appellate Division in each department shall have power to fix the times and places for holding Special and Trial Terms therein, and to assign the justices in the departments to hold such terms; or to make rules therefor.

JUDGES NOT TO SIT IN REVIEW IN CERTAIN CASES.

SEC. 3. No judge or justice shall sit in the Appellate Division or in the Court of Appeals in review of a decision made by him or by any court of which he was at the time a sitting member. The testimony in equity cases shall be taken in like manner as in cases at law; and, except as herein otherwise provided, the Legislature shall have the same power to alter and regulate the jurisdiction and proceedings in law and in equity that it has heretofore exercised.

TERMS OF OFFICE.

SEC. 4. The official terms of the justices of the Supreme Court shall be fourteen years from and including the first day of January next after their election. When a vacancy shall occur otherwise than by expiration of term in the office of justice of the Supreme Court the same shall be filled for a full term, at the next general election, happening not less than three months after such vacancy occurs; and, until the vacancy shall be so filled, the Governor by and with the advice and consent of the Senate, if the Senate shall be in session, or if not in session, the Governor may fill such vacancy by appointment, which shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

¹ As amended November 7, 1905; in effect January 1, 1906.

ABOLITION OF CITY COURTS.

SEC. 5. The Superior Court of the City of New York, the Court of Common Pleas for the City and County of New York, the Superior Court of Buffalo, and the City Court of Brooklyn, are abolished from and after the first day of January, one thousand eight hundred and ninety-six, and thereupon the seals, records, papers and documents of or belonging to such courts, shall be deposited in the offices of the clerks of the several counties in which said courts now exist; and all actions and proceedings then pending in such courts shall be transferred to the Supreme Court for hearing and determination. The judges of said courts in office on the first day of January, one thousand eight hundred and ninety-six, shall, for the remainder of the terms for which they were elected or appointed, be justices of the Supreme Court; but they shall sit only in the counties in which they were elected or appointed. Their salaries shall be paid by the said counties respectively, and shall be the same as the salaries of the other justices of the Supreme Court residing in the same counties. Their successors shall be elected as justices of the Supreme Court by the electors of the judicial districts in which they respectively reside.

The jurisdiction now exercised by the several courts hereby abolished, shall be vested in the Supreme Court. Appeals from inferior and local courts now heard in the Court of Common Pleas for the City and County of New York and the Superior Court of Buffalo, shall be heard in the Supreme Court in such manner and by such justice or justices as the Appellate Divisions in the respective departments, which include New York and Buffalo, shall direct, unless otherwise provided by the Legislature.

ABOLITION OF CIRCUIT COURTS AND COURTS OF OYER AND TERMINER.

SEC. 6. Circuit Courts and Courts of Oyer and Terminer are abolished from and after the last day of December, one thousand eight hundred and ninety-five. All their jurisdiction shall thereupon be vested in the Supreme Court, and all actions and proceedings then pending in such courts shall be transferred to the Supreme Court for hearing and determination. Any justice of the Supreme Court, except as otherwise provided in this article, may hold court in any county.

COURT OF APPEALS.

SEC. 7. The Court of Appeals is continued. It shall consist of the chief judge and associate judges now in office, who shall hold their offices until the expiration of their respective terms, and their successors, who shall be chosen by the electors of the State. The official terms of the chief judge and associate judges shall be fourteen years from and including the first day of January next after their election. Five members of the court shall form a quorum, and the concurrence of four shall be necessary to a decision. The court shall have power to appoint and to remove its reporter, clerk and attendants. Whenever and as often as a majority of the judges of the Court of Appeals shall certify to the Governor that said court is unable, by reason of the accumulation of causes pending therein, to hear and dispose of the same with reasonable speed, the Governor shall designate not more than four justices of the Supreme Court to serve as associate judges of Court of Appeals. The justices so designated shall be relieved from their duties as justices of the Supreme Court and shall serve as associate judges of the Court of Appeals until the causes undisposed of in said court are reduced to two hundred, when they shall return to the Supreme Court. The Governor may designate justices of the Supreme Court to fill vacancies. No justice shall serve as associate judge of the Court of Appeals, except while holding the office of Justice of the Supreme Court, and no more than seven judges shall sit in any case.¹

VACANCIES; HOW FILLED.

SEC. 8. When a vacancy shall occur otherwise than by expiration of term, in the office of chief or associate judge of the Court of Appeals, the same shall be filled, for a full term, at the next general election happening not less than three months after such vacancy occurs; and until the vacancy shall be so filled, the Governor, by and with the advice and consent of the Senate, if the Senate shall be in session, or if not in session the Governor may fill such vacancy by appointment. If any such appointment of chief judge shall be made from among the associate judges, a temporary appointment of associate judge shall be made in like manner; but in such case, the person appointed chief judge shall not be deemed to vacate his office of associate judge any longer than until the expiration of his appointment as chief judge. The powers and jurisdiction of the court

¹As amended November 7, 1899; in effect January 1, 1900.

shall not be suspended for want of appointment or election, when the number of judges is sufficient to constitute a quorum. All appointments under this section shall continue until and including the last day of December next after the election at which the vacancy shall be filled.

JURISDICTION OF COURT OF APPEALS.

SEC. 9. After the last day of December, one thousand eight hundred and ninety-five, the jurisdiction of the Court of Appeals, except where the judgment is of death, shall be limited to the review of questions of law. No unanimous decision of the Appellate Division of the Supreme Court that there is evidence supporting or tending to sustain a finding of fact or a verdict not directed by the court, shall be reviewed by the Court of Appeals. Except where the judgment is of death, appeals may be taken, as of right, to said court only from judgments or orders entered upon decisions of the Appellate Division of the Supreme Court, finally determining actions or special proceedings, and from orders granting new trials on exceptions, where the appellants stipulate that upon affirmance judgment absolute shall be rendered against them. The Appellate Division in any department may, however, allow an appeal upon any question of law which, in its opinion, ought to be reviewed by the Court of Appeals.

The Legislature may further restrict the jurisdiction of the Court of Appeals and the right of appeal thereto, but the right to appeal shall not depend upon the amount involved.

The provisions of this section shall not apply to orders made or judgments rendered by any General Term before the last day of December, one thousand eight hundred and ninety-five, but appeals therefrom may be taken under existing provisions of law.

JUDGES OF COURT OF APPEALS, OR JUSTICES OF SUPREME COURT, TO HOLD NO OTHER OFFICE.

SEC. 10. The judges of the Court of Appeals and the justices of the Supreme Court shall not hold any other office or public trust. All votes for any of them, for any other than a judicial office, given by the Legislature or the people, shall be void.

REMOVALS—PROCEEDINGS IN RELATION THERETO.

SEC. 11. Judges of the Court of Appeals and justices of the Supreme Court, may be removed by concurrent resolution of both

houses of the Legislature, if two-thirds of all the members elected to each house concur therein. All other judicial officers, except justices of the peace and judges or justices of inferior courts not of record, may be removed by the Senate, on the recommendation of the Governor, if two-thirds of all the members elected to the Senate concur therein. But no officer shall be removed by virtue of this section except for cause, which shall be entered on the journals, nor unless he shall have been served with a statement of the cause alleged, and shall have had an opportunity to be heard. On the question of removal, the yeas and nays shall be entered on the journal.

COMPENSATION; AGE RESTRICTION; ASSIGNMENT BY GOVERNOR.

SEC. 12. No person shall hold the office of judge or justice of any court longer than until and including the last day of December next after he shall be seventy years of age. Each justice of the Supreme Court shall receive from the State the sum of ten thousand dollars per year. Those assigned to the Appellate Divisions in the third and fourth departments shall each receive in addition the sum of two thousand dollars, and the presiding justices thereof the sum of two thousand five hundred dollars per year. Those justices elected in the first and second judicial departments shall continue to receive from their respective cities, counties, or districts as now provided by law, such additional compensation as will make their aggregate compensation what they are now receiving. Those justices elected in any judicial department other than the first or second, and assigned to the Appellate Divisions of the first or second departments shall, while so assigned, receive from those departments respectively, as now provided by law, such additional sum as is paid to the justices of those departments. A justice elected in the third or fourth department assigned by the Appellate Division or designated by the Governor to hold a trial or special term in a judicial district other than that in which he is elected shall receive in addition ten dollars per day for expenses while actually so engaged in holding such term, which shall be paid by the State and charged upon the judicial district where the service is rendered. The compensation herein provided shall be in lieu of and shall exclude all other compensation and allowance to said justices for expenses of every kind and nature whatsoever. The provisions of this section shall apply to the judges and justices now in office and to those hereafter elected. The judges and justices hereinbefore mentioned

shall receive for their services a compensation established by law, which shall not be increased or diminished during their official terms, except as provided in section five of this article. No person shall hold the office of judge or justice of any court longer than until and including the last day of December next after he shall be seventy years of age. No judge or justice elected after the first day of January, one thousand eight hundred and ninety-four, shall be entitled to receive any compensation after the last day of December next after he shall be seventy years of age; but the compensation of every judge of the Court of Appeals or justice of the Supreme Court elected prior to the first day of January, one thousand eight hundred and ninety-four, whose term of office has been, or whose present term of office shall be, so abridged, and who shall have served as such judge or justice ten years or more, shall be continued during the remainder of the term for which he was elected; but any such judge or justice may, with his consent, be assigned by the Governor, from time to time, to any duty in the Supreme Court while his compensation is so continued.¹

IMPEACHMENTS.

SEC. 13. The Assembly shall have the power of impeachment, by a vote of a majority of all the members elected. The Court for the Trial of Impeachments shall be composed of the President of the Senate, the senators, or the major part of them, and the judges of the Court of Appeals, or the major part of them. On the trial of an impeachment against the Governor or Lieutenant-Governor, the Lieutenant-Governor shall not act as a member of the court. No judicial officer shall exercise his office, after articles of impeachment against him shall have been preferred to the Senate, until he shall have been acquitted. Before the trial of an impeachment the members of the court shall take an oath or affirmation truly and impartially to try the impeachment according to the evidence, and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold and enjoy any office or honor, trust or profit under this State; but the party impeached shall be liable to indictment and punishment according to law.

¹ As amended November 2, 1909; in effect January 1, 1910.

COUNTY COURTS.

SEC. 14. The existing County Courts are continued, and the judges thereof now in office shall hold their offices until the expiration of their respective terms. In the county of Kings there shall be two county judges and the additional county judge shall be chosen at the next general election held after the adoption of this article. The successors of the several county judges shall be chosen by the electors of the counties for the term of six years. County Courts shall have the powers and jurisdiction they now possess, and also original jurisdiction in actions for the recovery of money only, where the defendants reside in the county, and in which the complaint demands judgment for a sum not exceeding two thousand dollars. The Legislature may hereafter enlarge or restrict the jurisdiction of the County Courts, provided, however, that their jurisdiction shall not be so extended as to authorize an action therein for the recovery of money only, in which the sum demanded exceeds two thousand dollars, or in which any person not a resident of the county is a defendant.

Courts of Sessions, except in the county of New York, are abolished from and after the last day of December, one thousand eight hundred and ninety-five. All the jurisdiction of the Court of Sessions in each county, except the county of New York, shall thereupon be vested in the County Court thereof, and all actions and proceedings then pending in such Courts of Sessions shall be transferred to said County Courts for hearing and determination. Every county judge shall perform such duties as may be required by law. His salary shall be established by law, payable out of the county treasury. A county judge of any county may hold County Courts in any other county when requested by the judges of such other county.

SURROGATES' COURTS.

SEC. 15. The existing Surrogates' Courts are continued, and the surrogates now in office shall hold their offices until the expiration of their terms. Their successors shall be chosen by the electors of their respective counties, and their terms of office shall be six years, except in the county of New York, where they shall continue to be fourteen years. Surrogates and Surrogates' Courts shall have the jurisdiction and powers which the surrogates and existing Surrogates' Courts now possess, until otherwise provided by the Legis-

lature. The county judge shall be surrogate of his county, except where a separate surrogate has been or shall be elected. In counties having a population exceeding forty thousand, wherein there is no separate surrogate, the Legislature may provide for the election of a separate officer to be surrogate, whose term of office shall be six years. When the surrogate shall be elected as a separate officer his salary shall be established by law, payable out of the county treasury. No county judge or surrogate shall hold office longer than until and including the last day of December next after he shall be seventy years of age. Vacancies occurring in the office of county judge or surrogate shall be filled in the same manner as like vacancies occurring in the Supreme Court. The compensation of any county judge or surrogate shall not be increased or diminished during his term of office. For the relief of Surrogates' Courts the Legislature may confer upon the Supreme Court in any county having a population exceeding four hundred thousand the powers and jurisdiction of surrogates, with authority to try issues of fact by jury in probate cases.

LOCAL JUDICIAL OFFICERS.

SEC. 16. The Legislature may, on application of the board of supervisors, provide for the election of local officers, not to exceed two in any county, to discharge the duties of county judge and of surrogate, in cases of their inability or of a vacancy, and in such other cases as may be provided by law, and to exercise such other powers in special cases as are or may be provided by law.

JUSTICES OF THE PEACE.

SEC. 17. The electors of the several towns shall, at their annual town meetings, or at such other time and in such manner as the Legislature may direct, elect justices of the peace, whose term of office shall be four years. In case of an election to fill a vacancy occurring before the expiration of a full term, they shall hold for the residue of the unexpired term. Their number and classification may be regulated by law. Justices of the peace and judges or justices of inferior courts not of record, and their clerks, may be removed for cause, after due notice and an opportunity of being heard, by such courts as are or may be prescribed by law. Justices of the peace and District Court justices may be elected in the different cities of this State in such manner, and with such powers, and for such terms, respectively, as are or shall be prescribed by law; all other judicial

officers in cities, whose election or appointment is not otherwise provided for in this article, shall be chosen by the electors of such cities, or appointed by some local authorities thereof.

INFERIOR LOCAL COURTS.

SEC. 18. Inferior local courts of civil and criminal jurisdiction may be established by the Legislature, but no inferior local court hereafter created shall be a court of record. The Legislature shall not hereafter confer upon any inferior or local court of its creation, any equity jurisdiction or any greater jurisdiction in other respects than is conferred upon County Courts by or under this article. Except as herein otherwise provided, all judicial officers shall be elected or appointed at such times and in such manner as the Legislature may direct.

CLERKS OF SUPREME COURT AND COURT OF APPEALS.

SEC. 19. Clerks of the several counties shall be clerks of the Supreme Court, with such powers and duties as shall be prescribed by law. The justices of the Appellate Division in each department shall have power to appoint and to remove a clerk who shall keep his office at a place to be designated by said justices. The clerk of the Court of Appeals shall keep his office at the seat of government. The clerk of the Court of Appeals and the clerks of the Appellate Division shall receive compensation to be established by law and paid out of the public treasury.

NO JUDICIAL OFFICER, EXCEPT JUSTICE OF THE PEACE, TO RECEIVE FEES.

SEC. 20. No judicial officer, except justices of the peace, shall receive to his own use any fees or perquisites of office; nor shall any judge of the Court of Appeals, or justice of the Supreme Court, or any county judge or surrogate hereafter elected in a county having a population exceeding one hundred and twenty thousand, practise as an attorney or counselor in any court of record in this State, or act as referee. The Legislature may impose a similar prohibition upon county judges and surrogates in other counties. No one shall be eligible to the office of judge of the Court of Appeals, justice of the Supreme Court, or, except in the county of Hamilton, to the office of county judge or surrogate, who is not an attorney and counselor of this State.

PUBLICATION OF STATUTES TO BE PROVIDED FOR.

SEC. 21. The Legislature shall provide for the speedy publication of all statutes, and shall regulate the reporting of the decisions of the courts; but all laws and judicial decisions shall be free for publication by any person.

LOCAL JUDICIAL OFFICERS—TERMS OF INCUMBENTS.

SEC. 22. Justices of the peace and other local judicial officers provided for in sections seventeen and eighteen in office when this article takes effect, shall hold their offices until the expiration of their respective terms.

COURTS OF SPECIAL SESSIONS.

SEC. 23. Courts of Special Sessions shall have such jurisdiction of offenses of the grade of misdemeanors as may be prescribed by law.

ARTICLE VII.

STATE CREDIT NOT TO BE LOANED.

SECTION 1. The credit of the State shall not in any manner be given or loaned to or in aid of any individual, association or corporation.

POWER TO CONTRACT DEBTS.

SEC. 2. The State may, to meet casual deficits or failures in revenues, or for expenses not provided for, contract debts; but such debts, direct or contingent, singly or in the aggregate, shall not at any time exceed one million of dollars; and the moneys arising from the loans creating such debts shall be applied to the purpose for which they were obtained, or to repay the debt so contracted, and to no other purpose whatever.

SEC. 3. In addition to the above limited power to contract debts, the State may contract debts to repel invasion, suppress insurrection, or defend the State in war; but the money arising from the contracting of such debts shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

LIMITATION OF LEGISLATIVE POWER IN THE CREATION OF DEBTS.

SEC. 4. Except the debts specified in sections two and three of this article, no debts shall be hereafter contracted by or in behalf of this State, unless such debt shall be authorized by a law for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax to pay, and sufficient to pay, the interest on such debt as it falls due, and also to pay and discharge the principal of such debt within fifty years from the time of the contracting thereof. No such law shall take effect until it shall, at a general election, have been submitted to the people, and have received a majority of all the votes cast for and against it at such election. On the final passage of such bill in either house of the Legislature, the question shall be taken by ayes and noes, to be duly entered on the journals thereof, and shall be: "Shall this bill pass, and ought the same to receive the sanction of the people?"

The Legislature may at any time, after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may at any time, by law, forbid the contracting of any further debt or liability under such law; but the tax imposed by such act, in proportion to the debt and liability which may have been contracted, in pursuance of such law, shall remain in force and be irrevocable, and be annually collected, until the proceeds thereof shall have made the provision hereinbefore specified to pay and discharge the interest and principal of such debt and liability. The money arising from any loan or stock creating such debt or liability shall be applied to the work or object specified in the act authorizing such debt or liability, or for the payment of such debt or liability, and for no other purpose whatever. No such law shall be submitted to be voted on within three months after its passage or at any general election when any other law, or any bill, shall be submitted to be voted for or against. The Legislature may provide for the issue of bonds of the State to run for a period not exceeding fifty years in lieu of bonds heretofore authorized but not issued and shall impose and provide for the collection of a direct annual tax for the payment of the same as hereinbefore required. When any sinking fund created under this section shall equal in amount the debt for which it was created, no further direct tax shall be levied on account of said sinking fund, and the Legislature shall reduce the tax to an amount equal to the accruing interest on such

debt.¹ The Legislature may from time to time alter the rate of interest to be paid upon any State debt, which has been or may be authorized pursuant to the provisions of this section, or upon any part of such debt, provided, however, that the rate of interest shall not be altered upon any part of such debt or upon any bond or other evidence thereof, which has been, or shall be created or issued before such alteration. In case the Legislature increase the rate of interest upon any such debt, or part thereof, it shall impose and provide for the collection of a direct annual tax to pay and sufficient to pay the increased or altered interest on such debt as it falls due and also to pay and discharge the principal of such debt within fifty years from the time of the contracting thereof, and shall appropriate annually to the sinking fund moneys in amount sufficient to pay such interest and pay and discharge the principal of such debt when it shall become due and payable.²

SEC. 5. The sinking funds provided for the payment of interest and the extinguishment of the principal of the debts of the State shall be separately kept and safely invested, and neither of them shall be appropriated or used in any manner other than for the specific purpose for which it shall have been provided.

CLAIMS.

SEC. 6. Neither the Legislature, Canal Board, nor any person or persons acting in behalf of the State, shall audit, allow, or pay any claim which, as between citizens of the State, would be barred by lapse of time. This provision shall not be construed to repeal any statute fixing the time within which claims shall be presented or allowed, nor shall it extend to any claims duly presented within the time allowed by law, and prosecuted with due diligence from the time of such presentment. But if the claimant shall be under legal disability, the claim may be presented within two years after such disability is removed.

FOREST PRESERVE.

SEC. 7. The lands of the State, now owned or hereafter acquired, constituting the forest preserve as now fixed by law, shall be forever kept as wild forest lands. They shall not be leased, sold or exchanged, or be taken by any corporation, public or private, nor shall the timber thereon be sold, removed or destroyed.

¹ As amended November 7, 1905; in effect January 1, 1906.

² As amended November 2, 1909; in effect January 1, 1910.

SEC. 8. The Legislature shall not sell, lease or otherwise dispose of the Erie canal, the Oswego canal, the Champlain canal, the Cayuga and Seneca canal, or the Black River canal; but they shall remain the property of the State and under its management forever. The prohibition of lease, sale or other disposition herein contained, shall not apply to the canal known as the Main and Hamburg street canal, situated in the city of Buffalo, and which extends easterly from the westerly line of Main street to the westerly line of Hamburg street. All funds that may be derived from any lease, sale or other disposition of any canal shall be applied to the improvement, superintendence or repair of the remaining portion of the canals.

MAINTENANCE OF CANALS.

SEC. 9. No tolls shall hereafter be imposed on persons or property transported on the canals, but all boats navigating the canals, and the owners and masters thereof, shall be subject to such laws and regulations as have been or may hereafter be enacted concerning the navigation of the canals. The Legislature shall annually, by equitable taxes, make provision for the expenses of the superintendence and repairs of the canals. All contracts for work or materials on any canal shall be made with the persons who shall offer to do or provide the same at the lowest price, with adequate security for their performance. No extra compensation shall be made to any contractor; but if, from any unforeseen cause, the terms of any contract shall prove to be unjust and oppressive, the Canal Board may, upon the application of the contractor, cancel such contract.

IMPROVEMENT OF CANALS.

SEC. 10. The canals may be improved in such manner as the Legislature shall provide by law. A debt may be authorized for that purpose in the mode prescribed by section four of this article, or the cost of such improvement may be defrayed by the appropriation of funds from the State treasury, or by equitable annual tax.

ARTICLE VIII.

CORPORATIONS, HOW CREATED.

SECTION 1. Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the Legislature, the objects of the corporation cannot be attained under general laws. All general laws and special acts passed pursuant to this section may be altered from time to time or repealed.

DEBTS OF CORPORATIONS.

SEC. 2. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

"CORPORATIONS" DEFINED.

SEC. 3. The term corporations as used in this article shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue and shall be subject to be sued in all courts in like cases as natural persons.

SEC. 4. The Legislature shall, by general law, conform all charters of savings banks, or institutions for savings, to a uniformity of powers, rights and liabilities, and all charters hereafter granted for such corporations shall be made to conform to such general law, and to such amendments as may be made thereto. And no such corporation shall have any capital stock, nor shall the trustees thereof, or any of them, have any interest whatever, direct or indirect, in the profits of such corporation; and no director or trustee of any such bank or institution shall be interested in any loan or use of any money or property of such bank or institution for savings. The Legislature shall have no power to pass any act granting any special charter for banking purposes; but corporations or associations may be formed for such purposes under general laws.

SPECIE PAYMENTS.

SEC. 5. The Legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments by any person, association or corporation, issuing bank notes of any description.

REGISTRY OF BILLS OR NOTES.

SEC. 6. The Legislature shall provide by law for the registry of all bills or notes, issued or put in circulation as money, and shall require ample security for the redemption of the same in specie.

INDIVIDUAL RESPONSIBILITY OF STOCKHOLDERS.

SEC. 7. The stockholders of every corporation and joint-stock association for banking purposes, shall be individually responsible

to the amount of their respective share or shares of stock in any such corporation or association, for all its debts and liabilities of every kind.

INSOLVENCY OF BANKS, PREFERENCE.

SEC. 8. In case of the insolvency of any bank or banking association, the billholders thereof shall be entitled to preference in payment, over all other creditors of such bank or association.

CREDIT OR MONEY OF THE STATE NOT TO BE GIVEN OR LOANED.

SEC. 9. Neither the credit nor the money of the State shall be given or loaned to or in aid of any association, corporation or private undertaking. This section shall not, however, prevent the Legislature from making such provision for the education and support of the blind, the deaf and dumb, and juvenile delinquents, as to it may seem proper. Nor shall it apply to any fund or property now held, or which may hereafter be held, by the State for educational purposes.

LIMITATION OF INDEBTEDNESS OF COUNTIES, CITIES, TOWNS, AND VILLAGES; EXCEPTION AS TO THE CITY OF NEW YORK.

SEC. 10. No county, city, town or village shall hereafter give any money or property, or loan its money or credit to or in aid of any individual, association or corporation, or become directly or indirectly the owner of stock in, or bonds of, any association or corporation; nor shall any such county, city, town or village be allowed to incur any indebtedness except for county, city, town or village purposes. This section shall not prevent such county, city, town or village from making such provision for the aid or support of its poor as may be authorized by law. No county or city shall be allowed to become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed ten per centum of the assessed valuation of the real estate of such county or city subject to taxation, as it appeared by the assessment rolls of said county or city on the last assessment for State or county taxes prior to the incurring of such indebtedness; and all indebtedness in excess of such limitation, except such as now may exist, shall be absolutely void, except as herein otherwise provided. No county or city whose present indebtedness exceeds ten per centum of the assessed valuation of its real estate subject to taxation, shall be allowed to become indebted in any further amount until such indebtedness shall be reduced within such limit. This

section shall not be construed to prevent the issuing of certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes for amounts actually contained, or to be contained, in the taxes for the year when such certificates or revenue bonds are issued and payable out of such taxes; nor to prevent the city of New York from issuing bonds to be redeemed out of the tax levy for the year next succeeding the year of their issue, provided that the amount of such bonds which may be issued in any one year in excess of the limitations herein contained, shall not exceed one-tenth of one per centum of the assessed valuation of the real estate of the said city subject to taxation. Nor shall this section be construed to prevent the issue of bonds to provide for the supply of water; but the term of the bonds issued to provide the supply of water, in excess of the limitation of the indebtedness fixed herein, shall not exceed twenty years and a sinking fund shall be created on the issuing of the said bonds for their redemption, by raising annually a sum which will produce an amount equal to the sum of the principal and interest of said bonds at their maturity. All certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes, which are not retired within five years after their date of issue, and bonds issued to provide for the supply of water, and any debt hereafter incurred by any portion or part of a city, if there shall be any such debt, shall be included in ascertaining the power of the city to become otherwise indebted; except that debts incurred by the city of New York after the first day of January, nineteen hundred and four, and debts incurred by any city of the second class after the first day of January, nineteen hundred and eight, and debts incurred by any city of the third class after the first day of January, nineteen hundred and ten, to provide for water shall not be so included; and except further that any debt hereafter incurred by the city of New York for a public improvement owned or to be owned by the city, which yields to the city current net revenue, after making any necessary allowance for repairs and maintenance for which the city is liable, in excess of the interest on said debt and of the annual instalments necessary for its amortization may be excluded in ascertaining the power of said city to become otherwise indebted, provided that a sinking fund for its amortization shall have been established and maintained and that the indebtedness shall not be so excluded during any period of time when the revenue aforesaid shall not be sufficient to equal the said interest and amortization instalments, and except further that any

indebtedness heretofore incurred by the city of New York for any rapid transit or dock investment may be so excluded proportionately to the extent to which the current net revenue received by said city therefrom shall meet the interest and amortization instalments thereof, provided that any increase in the debt incurring power of the city of New York which shall result from the exclusion of debts heretofore incurred shall be available only for the acquisition or construction of properties to be used for rapid transit or dock purposes. The Legislature shall prescribe the method by which and the terms and conditions under which the amount of any debt to be so excluded shall be determined, and no such debt shall be excluded except in accordance with the determination so prescribed. The Legislature may in its discretion confer appropriate jurisdiction on the Appellate Division of the Supreme Court in the first judicial department for the purpose of determining the amount of any debt to be so excluded. No indebtedness of a city valid at the time of its inception shall thereafter become invalid by reason of the operation of any of the provisions of this section. Whenever the boundaries of any city are the same as those of a county, or when any city shall include within its boundaries more than one county, the power of any county wholly included within such city to become indebted shall cease, but the debt of the county heretofore existing shall, for the purpose of this section, not be reckoned as a part of the city debt. The amount hereafter to be raised by tax for county or city purposes, in any county containing a city of over one hundred thousand inhabitants, or any such city of this State, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed in any one year two per centum of the assessed valuation of the real and personal estate of such county or city, to be ascertained as prescribed in this section in respect to county or city debt.¹

STATE BOARD OF CHARITIES.

SEC. 11. The Legislature shall provide for a State Board of Charities, which shall visit and inspect all institutions, whether State, county, municipal, incorporated or not incorporated, which are of a charitable, eleemosynary, correctional or reformatory character, excepting only such institutions as are hereby made subject to the visitation and inspection of either of the commissions here-

¹ As amended on several occasions from 1899 to 1910.

inafter mentioned, but including all reformatories except those in which adult males convicted of felony shall be confined; a State Commission in Lunacy, which shall visit and inspect all institutions, either public or private, used for the care and treatment of the insane (not including institutions for epileptics or idiots); a State Commission of Prisons which shall visit and inspect all institutions used for the detention of sane adults charged with or convicted of crime, or detained as witnesses or debtors.

SEC. 12. The members of the said board and of the said commissions shall be appointed by the Governor, by and with the advice and consent of the Senate; and any member may be removed from office by the Governor for cause, an opportunity having been given him to be heard in his defense.

INSPECTION OF INSTITUTIONS.

SEC. 13. Existing laws relating to institutions referred to in the foregoing sections and to their supervision and inspection, in so far as such laws are not inconsistent with the provisions of the Constitution, shall remain in force until amended or repealed by the Legislature. The visitation and inspection herein provided for shall not be exclusive of other visitation and inspection now authorized by law.

MAINTENANCE OF CHARITABLE INSTITUTIONS.

SEC. 14. Nothing in this Constitution contained shall prevent the Legislature from making such provision for the education and support of the blind, the deaf and dumb, and juvenile delinquents, as to it may seem proper; or prevent any county, city, town or village from providing for the care, support, maintenance and secular education, of inmates of orphan asylums, homes for dependent children or correctional institutions, whether under public or private control. Payments by counties, cities, towns and villages to charitable, eleemosynary, correctional and reformatory institutions, wholly or partly under private control, for care, support and maintenance, may be authorized, but shall not be required by the Legislature. No such payments shall be made for any inmate of such institutions who is not received and retained therein pursuant to rules established by the State Board of Charities. Such rules shall be subject to the control of the Legislature by general laws.

COMMISSIONERS—TERMS OF OFFICE, ETC.

SEC. 15. Commissioners of the State Board of Charities and Commissioners of the State Commission in Lunacy, now holding office shall be continued in office for the term for which they were appointed respectively, unless the Legislature shall otherwise provide. The Legislature may confer upon the commissions and upon the board mentioned in the foregoing sections any additional powers that are not inconsistent with other provisions of the Constitution.

ARTICLE IX.

PROVISION FOR MAINTENANCE OF FREE SCHOOLS.

SECTION 1. The Legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this State may be educated.

UNIVERSITY OF THE STATE OF NEW YORK.

SEC. 2. The corporation created in the year one thousand seven hundred and eighty-four, under the name of The Regents of the University of the State of New York, is hereby continued under the name of the University of the State of New York. It shall be governed and its corporate powers, which may be increased, modified or diminished by the Legislature, shall be exercised, by not less than nine regents.

COMMON-SCHOOL LITERATURE AND UNITED STATES DEPOSIT FUNDS.

SEC. 3. The capital of the common-school fund, the capital of the literature fund, and the capital of the United States deposit fund, shall be respectively preserved inviolate. The revenue of the said common-school fund shall be applied to the support of common schools; the revenue of the said literature fund shall be applied to the support of academies; and the sum of twenty-five thousand dollars of the revenues of the United States deposit fund shall each year be appropriated to and made part of the capital of the said common-school fund.

PROPERTY, CREDIT OR PUBLIC MONEY NOT TO BE USED.

SEC. 4. Neither the State, nor any subdivision thereof, shall use its property or credit or any public money, or authorize or permit either to be used, directly or indirectly, in aid or maintenance, other

than for examination or inspection, of any school or institution of learning wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine is taught.

ARTICLE X.

GOVERNOR MAY REMOVE CERTAIN OFFICERS.

SECTION 1. Sheriffs, clerks of counties, district attorneys, and registers in counties having registers, shall be chosen by the electors of the respective counties, once in every three years and as often as vacancies shall happen, except in the counties of New York and Kings, and in counties whose boundaries are the same as those of a city, where such officers shall be chosen by the electors once in every two or four years as the Legislature shall direct. Sheriffs shall hold no other office, and be ineligible for the next term after the termination of their offices. They may be required by law to renew their security, from time to time; and in default of giving such new security, their offices shall be deemed vacant. But the county shall never be made responsible for the acts of the sheriff. The Governor may remove any officer, in this section mentioned, within the term for which he shall have been elected; giving to such officer a copy of the charges against him, and an opportunity of being heard in his defense.

SEC. 2. All county officers, whose election or appointment is not provided for by this Constitution, shall be elected by the electors of the respective counties or appointed by the boards of supervisors, or other county authorities, as the Legislature shall direct. All city, town and village officers, whose election or appointment is not provided for by this Constitution, shall be elected by the electors of such cities, towns and villages, or of some division thereof, or appointed by such authorities thereof, as the Legislature shall designate for that purpose. All other officers, whose election or appointment is not provided for by this Constitution, and all officers, whose offices may hereafter be created by law, shall be elected by the people, or appointed, as the Legislature may direct.

DURATION OF OFFICE.

SEC. 3. When the duration of any office is not provided by this Constitution, it may be declared by law, and if not so declared, such

office shall be held during the pleasure of the authority making the appointment.

TIME OF ELECTION.

SEC. 4. The time of electing all officers named in this article shall be prescribed by law.

VACANCIES IN OFFICE.

SEC. 5. The Legislature shall provide for filling vacancies in office, and in case of elective officers, no person appointed to fill a vacancy shall hold his office by virtue of such appointment longer than the commencement of the political year next succeeding the first annual election after the happening of the vacancy.

POLITICAL YEAR.

SEC. 6. The political year and legislative term shall begin on the first day of January; and the Legislature shall, every year, assemble on the first Wednesday in January.

REMOVALS FROM OFFICE.

SEC. 7. Provision shall be made by law for the removal for misconduct or malversation in office of all officers, except judicial, whose powers and duties are not local or legislative and who shall be elected at general elections, and also for supplying vacancies created by such removal.

WHEN OFFICE DEEMED VACANT.

SEC. 8. The Legislature may declare the cases in which any office shall be deemed vacant when no provision is made for that purpose in this Constitution.

COMPENSATION OF CERTAIN OFFICERS.

SEC. 9. No officer whose salary is fixed by the Constitution shall receive any additional compensation. Each of the other State officers named in the Constitution shall, during his continuance in office, receive a compensation, to be fixed by law, which shall not be increased or diminished during the term for which he shall have been elected or appointed; nor shall he receive to his use any fees or perquisites of office or other compensation.

ARTICLE XI.

MILITIA.

SECTION 1. All able-bodied male citizens between the ages of eighteen and forty-five years, who are residents of the State, shall constitute the militia, subject, however, to such exemptions as are now, or may be hereafter created by the laws of the United States, or by the Legislature of this State.

PROVISION FOR ENLISTMENT.

SEC. 2. The Legislature may provide for the enlistment into the active force of such other persons as may make application to be so enlisted.

ORGANIZATION AND MAINTENANCE OF MILITIA.

SEC. 3. The militia shall be organized and divided into such land and naval, and active and reserve forces, as the Legislature may deem proper, provided, however, that there shall be maintained at all times a force of not less than ten thousand enlisted men, fully uniformed, armed, equipped, disciplined and ready for active service. And it shall be the duty of the Legislature at each session to make sufficient appropriations for the maintenance thereof.

OFFICERS TO BE APPOINTED BY THE GOVERNOR.

SEC. 4. The Governor shall appoint the chiefs of the several staff departments, his aides-de-camp and military secretary, all of whom shall hold office during his pleasure, their commissions to expire with the term for which the Governor shall have been elected; he shall also nominate, and with the consent of the Senate appoint, all major-generals.

COMMISSIONED AND NON-COMMISSIONED OFFICERS, HOW CHOSEN.

SEC. 5. All other commissioned and non-commissioned officers shall be chosen or appointed in such manner as the Legislature may deem most conducive to the improvement of the militia, provided, however, that no law shall be passed changing the existing mode of election and appointment unless two-thirds of the members present in each house shall concur therein.

OFFICERS, HOW COMMISSIONED.

SEC. 6. The commissioned officers shall be commissioned by the Governor as commander-in-chief. No commissioned officer shall be removed from office during the term for which he shall have been appointed or elected, unless by the Senate on the recommendation of the Governor, stating the grounds on which such removal is recommended, or by the sentence of a court-martial, or upon the findings of an examining board organized pursuant to law, or for absence without leave for a period of six months or more.

ARTICLE XII.

ORGANIZATION OF CITIES AND VILLAGES.

SECTION 1. It shall be the duty of the Legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and in contracting debt by such municipal corporations; and the Legislature may regulate and fix the wages or salaries, the hours of work or labor, and make provision for the protection, welfare and safety of persons employed by the State or by any county, city, town, village or other civil division of the State, or by any contractor or subcontractor performing work, labor or services for the State, or for any county, city, town, village or other civil division thereof.¹

CLASSIFICATION OF CITIES, ETC.

SEC. 2. All cities are classified according to the latest State enumeration, as from time to time made, as follows: The first class includes all cities having a population of one hundred and seventy-five thousand or more; the second class, all cities having a population of fifty thousand and less than one hundred and seventy-five thousand; the third class, all other cities. Laws relating to the property, affairs of government of cities, and the several departments thereof, are divided into general and special city laws; general city laws are those which relate to all the cities of one or more classes; special city laws are those which relate to a single city, or to less than all the cities of a class. Special city laws shall not be passed except in conformity with the provisions of this section. After any bill for a special city law, relating to a city, has been passed by both branches of the Legislature, the house in which it originated

¹ As amended November 7, 1905; in effect January 1, 1906.

shall immediately transmit a certified copy thereof to the mayor of such city, and within fifteen days thereafter the mayor shall return such bill to the house from which it was sent, or if the session of the Legislature at which such bill was passed has terminated, to the Governor, with the mayor's certificate thereon, stating whether the city has or has not accepted the same.

In every city of the first class, the mayor, and in every other city, the mayor and the legislative body thereof concurrently, shall act for such city as to such bill; but the Legislature may provide for the concurrence of the legislative body in cities of the first class. The Legislature shall provide for a public notice and opportunity for a public hearing concerning any such bill in every city to which it relates, before action thereon. Such a bill, if it relates to more than one city, shall be transmitted to the mayor of each city to which it relates, and shall not be deemed accepted unless accepted as herein provided, by every such city. Whenever any such bill is accepted as herein provided, it shall be subject as are other bills, to the action of the Governor. Whenever, during the session at which it was passed, any such bill is returned without the acceptance of the city or cities to which it relates, or within such fifteen days is not returned, it may nevertheless again be passed by both branches of the Legislature, and it shall then be subject as are other bills, to the action of the Governor. In every special city law which has been accepted by the city or cities to which it relates, the title shall be followed by the words "accepted by the city," or "cities," as the case may be; in every such law which is passed without such acceptance, by the words "passed without the acceptance of the city," or "cities," as the case may be.¹

ELECTIONS, HOW HELD.

SEC. 3. All elections of city officers, including supervisors and judicial officers of inferior local courts, elected in any city or part of a city, and of county officers elected in the counties of New York and Kings, and in all counties whose boundaries are the same as those of a city, except to fill vacancies, shall be held on the Tuesday succeeding the first Monday in November in an odd-numbered year, and the term of every such officer shall expire at the end of an odd-numbered year. The terms of office of all such officers elected before the first day of January, one thousand eight hundred and ninety-five, whose successors have not then been elected, which

¹ As amended November 5, 1907; in effect January 1, 1908.

under existing laws would expire with an even-numbered year, or in an odd-numbered year and before the end thereof, are extended to and including the last day of December next following the time when such terms would otherwise expire; the terms of office of all such officers, which under existing laws would expire in an even-numbered year, and before the end thereof, are abridged so as to expire at the end of the preceding year. This section shall not apply to any city of the third class, or to elections of any judicial officer, except judges and justices of inferior local courts.

ARTICLE XIII.

OATH OF OFFICE.

SECTION 1. Members of the Legislature, and all officers, executive and judicial, except such inferior officers as shall be by law exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of New York, and that I will faithfully discharge the duties of the office of ———, according to the best of my ability"; and all such officers who shall have been chosen at any election shall, before they enter on the duties of their respective offices, take and subscribe the oath or affirmation above prescribed, together with the following addition thereto, as part thereof:

"And I do further solemnly swear (or affirm) that I have not directly or indirectly paid, offered or promised to pay, contribute, or offered or promised to contribute any money or other valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office, and have not made any promise to influence the giving or withholding any such vote," and no other oath, declaration or test shall be required as a qualification for any office of public trust.

BRIBERY AND CORRUPTION.

SEC. 2. Any person holding office under the laws of this State, who, except in payment of his legal salary, fees or perquisites, shall receive or consent to receive, directly or indirectly, any thing of

value or of personal advantage, or the promise thereof, for performing or omitting to perform any official act, or with the express or implied understanding that his official action or omission to act is to be in any degree influenced thereby, shall be deemed guilty of a felony. This section shall not affect the validity of any existing statute in relation to the offense of bribery.

OFFER OF BRIBERY A FELONY.

SEC. 3. Any person who shall offer or promise a bribe to an officer, if it shall be received, shall be deemed guilty of a felony and liable to punishment, except as herein provided. No person offering a bribe shall, upon any prosecution of the officer for receiving such bribe, be privileged from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor, if he shall testify to the giving or offering of such a bribe. Any person who shall offer or promise a bribe, if it be rejected by the officer to whom it was tendered, shall be deemed guilty of an attempt to bribe, which is hereby declared to be a felony.

WITNESS.

SEC. 4. Any person charged with receiving a bribe, or with offering or promising a bribe, shall be permitted to testify in his own behalf in any civil or criminal prosecution therefor.

FREE PASSES OR TRANSPORTATION, A MISDEMEANOR.

SEC. 5. No public officer, or person elected or appointed to a public office, under the laws of this State, shall directly or indirectly ask, demand, accept, receive or consent to receive for his own use or benefit, or for the use or benefit of another, any free pass, free transportation, franking privilege or discrimination in passenger, telegraph or telephone rates, from any person or corporation, or make use of the same himself or in conjunction with another. A person who violates any provision of this section, shall be deemed guilty of a misdemeanor, and shall forfeit his office at the suit of the Attorney-General. Any corporation, or officer or agent thereof, who shall offer or promise to a public officer, or person elected or appointed to a public office, any such free pass, free transportation, franking privilege or discrimination, shall also be deemed guilty

of a misdemeanor and liable to punishment except as herein provided. No person, or officer or agent of a corporation giving any such free pass, free transportation, franking privilege or discrimination hereby prohibited, shall be privileged from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor if he shall testify to the giving of the same.

REMOVAL OF DISTRICT ATTORNEY.

SEC. 6. Any district attorney who shall fail faithfully to prosecute a person charged with the violation in his county of any provision of this article which may come to his knowledge, shall be removed from office by the Governor, after due notice and an opportunity of being heard in his defense. The expenses which shall be incurred by any county, in investigating and prosecuting any charge of bribery or attempting to bribe any person holding office under the laws of this State, within such county, or of receiving bribes by any such person in said county, shall be a charge against the State, and their payment by the State shall be provided for by law.

ARTICLE XIV.

AMENDMENTS.

SECTION 1. Any amendment or amendments to this Constitution may be proposed in the Senate and Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and referred to the Legislature to be chosen at the next general election of senators, and shall be published for three months previous to the time of making such choice; and if in the Legislature so next chosen, as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people for approval in such manner and at such times as the Legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become a part of the Constitution from and after the first day of January next after such approval.

CONSTITUTIONAL CONVENTION.

SEC. 2. At the general election to be held in the year one thousand nine hundred and sixteen, and every twentieth year thereafter, and also at such times as the Legislature may by law provide, the question: "Shall there be a convention to revise the Constitution and amend the same?" shall be decided by the electors of the State; and in case a majority of the electors voting thereon shall decide in favor of a convention for such purpose, the electors of every senate district of the State, as then organized, shall elect three delegates at the next ensuing general election at which members of the Assembly shall be chosen, and the electors of the State voting at the same election shall elect fifteen delegates-at-large. The delegates so elected shall convene at the capitol on the first Tuesday of April next ensuing after their election, and shall continue their session until the business of such convention shall have been completed. Every delegate shall receive for his services the same compensation and the same mileage as shall then be annually payable to the members of the Assembly. A majority of the convention shall constitute a quorum for the transaction of business, and no amendment to the Constitution shall be submitted for approval to the electors as hereinafter provided, unless by the assent of a majority of all the delegates elected to the convention, the yeas and nays being entered on the journal to be kept. The convention shall have the power to appoint such officers, employees and assistants as it may deem necessary, and fix their compensation and to provide for the printing of its documents, journal and proceedings. The convention shall determine the rules of its own proceedings, choose its own officers, and be the judge of the election, returns and qualifications of its members. In case of a vacancy, by death, resignation or other cause, of any district delegate elected to the convention, such vacancy shall be filled by a vote of the remaining delegates representing the district in which such vacancy occurs. If such vacancy occurs in the office of a delegate-at-large, such vacancy shall be filled by a vote of the remaining delegates-at-large. Any proposed constitution or constitutional amendment which shall have been adopted by such convention, shall be submitted to a vote of the electors of the State at the time and in the manner provided by such convention, at an election which shall be held not less than six weeks after the adjournment of such convention. Upon the approval of such constitution or constitutional amendments, in the

manner provided in the last preceding section, such constitution or constitutional amendment shall go into effect on the first day of January next after such approval.

CONSTITUTIONAL AMENDMENTS TO SUPERSEDE AMENDMENTS BY
LEGISLATURE.

SEC. 3. Any amendment proposed by a constitutional convention relating to the same subject as an amendment proposed by the Legislature, coincidentally submitted to the people for approval at the general election held in the year one thousand eight hundred and ninety-four, or at any subsequent election, shall, if approved, be deemed to supersede the amendment so proposed by the Legislature.

ARTICLE XV.

SECTION 1. This Constitution shall be in force from and including the first day of January, one thousand eight hundred and ninety-five, except as herein otherwise provided.

Done in Convention at the Capitol in the city of Albany, the twenty-ninth day of September, in the year one thousand eight hundred and ninety-four, and of the Independence of the United States of America the one hundred and nineteenth.

In witness whereof, we have hereunto subscribed our names.

JOSEPH HODGES CHOATE,
President and Delegate-at-Large.

CHARLES ELLIOTT FITCH,
Secretary.

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GOVERNMENT IN
STATE AND NATION

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PREFACE

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THE subject-matter herewith presented partially represents the plan pursued by the authors as teachers of civil government for a number of years in secondary schools. A study of the actual methods by which the affairs of government are conducted gives constant interest to the work, and consequently the practical side has been emphasized. Many problems besides those presented in the supplementary questions may be worked out from the official reports.

Scarcely a month passes without the appearance in the more noted magazines of articles on phases of governmental activity which have permanent value. No attempt has been made to give references to all of this material which has appeared during the past ten years. The ability of the reader has been kept constantly in mind and the intention has been to refer only to such articles as would be of value to students in high schools, academies, and normal schools.

We are under especial obligation to teachers who have used the first edition of the book for their helpful suggestions on desirable modifications.

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SOME SUGGESTIONS TO TEACHERS

WE trust the following observations may be of value to teachers in the use of this book, and at the same time answer certain questions which we are assured will arise.

1. There are but few questions given on the subject-matter of the text, for each teacher will doubtless prefer to present the topics in his own way. While some of the discussions and many of the suggestive questions are intended to make students realize more completely their duties as citizens, many more having a local bearing will occur to teachers. "Topical outlines" are omitted, for by the aid of the marginal topics students will be able to make outlines for themselves which will be of vastly greater interest and value.

2. All teachers may not care to use the parts of the book in the same order, and the arrangement is such that either Local (Part I) or National Government (Part II) may be studied first. In the work on local government, it is not expected that the student will *learn* all of the different practices found in the various States, but that he will compare them with those of his own State.

3. There are more supplementary questions and references, doubtless, than can be used by any one class, but this will give the teacher an opportunity for selection. A number of the references may be used each day by assigning special problems to individual students.

4. It is scarcely to be hoped that all the books and magazines mentioned will be found in any high-school library, but the need for supplementary reading is being met

through the rapid increase of public libraries. Great care has been taken in selecting the books which are given in Appendix C, and by adding a few of these each year a working library on the subject of Civics may soon be secured. Many of the reports issued by the government may be readily obtained by applying to your Congressman or to the government officials.

5. Some teachers may have difficulty in securing the periodical literature. In nearly every village there are persons who have subscribed for these magazines for a number of years and would be willing to present them to the school library.

INTRODUCTORY CHAPTER

NEED OF GOVERNMENT

THE control of our actions by some kind of government precedes our earliest recollections; this we have constantly experienced in the family and in school. Wherever men live in communities they are under political government; their relations with one another must be regulated by well-understood rules in order that they may live and conduct business in security. By means of political government, also, communities find it convenient to increase the comforts of life, as in the building of good roads and streets; they furnish themselves with the means of education and culture through schools and libraries. For such purposes the government of town, village, and city is of the first importance. But business and political relations exist among communities, as well as among individuals. Consequently, our local governments must be supplemented by organizations that cover larger areas and include many communities; therefore the county and State governments are formed. For the same reasons, and also for reasons of which we learn in the study of United States history, a government for the United States became a necessity at the very beginning of our National life.

In these various political organizations the plan of government is the same. In the first place, there is always the law-making body, prescribing the regulations to which men must subject themselves if they are to live together in harmony. Again, because laws do not enforce themselves,

officers are selected to see that these provisions are carried out. Finally, since men frequently disagree as to the meaning of laws, and because there are always those who wilfully violate them in order to secure some personal advantage, courts are established in which the laws are interpreted and offenders are judged. We have, then, the three departments of government—legislative, executive, and judicial.

The system of local government to which you are accustomed did not grow up spontaneously, nor was it established arbitrarily. There are reasons to be found in history and in the nature of the environment which explain many of its details. The same may be said of our State and National systems. In consequence, we shall find it advantageous to trace briefly some historical origins of government in our country. Again, it is evident that no system of human government is perfect. In every community the defects of laws and their non-enforcement are familiar topics of discussion, while the failures of State and National governments at certain points are no less conspicuous. These are the problems to which our attention will be directed in the course of our study.

For the most part, however, it will be our task to study *government as it now exists* in town and city, State and Nation. We shall look backward into history only when this is necessary for the understanding of our present forms and practices. We shall look forward to the solution of a few of the simpler problems that now confront us. A study of the deeper origins and of the more profound problems must be postponed to the years of advanced work in college.

PART I

LOCAL GOVERNMENT

CHAPTER I

TOWN AND COUNTY GOVERNMENT

WHEN, in the seventeenth century, Englishmen made settlements along the Atlantic coast, some form of local government became an immediate necessity. They adopted consequently the political usages to which they had been accustomed at home, selecting those offices and forms of procedure that seemed best adapted to their needs and surroundings. Because natural conditions and the ideas of the settlers varied considerably in the different colonies, we find several varieties of local government growing up. But since these local governments were all established by Englishmen, and, moreover, by Englishmen of very similar habits and social grades, we find, on the whole, great similarity in their fundamental features.

The origin
of our local
govern-
ments.

The most marked differences are seen in a comparison of local governments in New England and in Virginia. The settlers of New England found themselves upon a coast indented by many bays and harbors; the country was hilly and the soil stony; streams were abundant but generally small, rapid, and unfit for navigation; the sea abounded in fish and the forests yielded excellent timber. These physical conditions hindered the rapid spread of population over large areas and offered many inducements

New Eng-
land con-
ditions.

2 TOWN AND COUNTY GOVERNMENT

for the gathering of the inhabitants into towns. Moreover, this tendency was in accord with the wishes of the Puritans. They desired, above everything, to foster the religious life of the little church communities into which they grouped themselves. They believed that all settlers should take an active part in worship and in the government of the church, and that consequently all should live within a short distance of the meeting-house.

The town
type:
meetings,
officers,
and func-
tions.

Under these circumstances the New Englanders put into practice those features of the ancient English township government that were best suited for governing their little towns. Once a year, or oftener, the voters assembled in town meeting to elect officers and to engage in general discussion of town affairs. Here taxes were levied, and the support of the poor, the maintenance of highways, church, and school were provided for. The officers of the town were the selectmen, a board having general oversight of town affairs, the treasurer, clerk, constables, school committee, assessors, fence-viewers, and frequently many others. The remarkable features of New England town government were the freedom with which all matters of public interest were discussed in the town meeting, and the care with which all affairs of government were guarded by officers and people alike. Early in the history of the Massachusetts Bay Colony towns were grouped into counties, and justices were appointed who held court in the towns of each county. Scarcely any but judicial matters were intrusted to the county government. The centre of political life in New England was the town, hence we have here the town or township type of local government.

Origin of
Virginia
local gov-
ernment.

A very different type of local government was developed in Virginia. If we contrast the physical geography of this section with that of New England we see how every inducement favored the scattering of population and the development of great plantations. The influence of tobacco

cultivation and of slavery was in the same direction. Since the desire for individual gain prompted most of the settlers, there were no strong ties tending to bind the people into compact communities. There were scarcely any towns in Virginia. Consequently the settlers were driven to select those features of English local government that were best adapted to their sparse settlements.

The local organization corresponding to the town of New England was the parish. The vestry, a group of officers originally elected by the members of a church, was given control of matters relating to the church and the poor. Other functions of local government were placed in the hands of the county court, a body composed of justices originally appointed by the governor of the colony. The county court administered justice, but it also had important legislative functions, for it levied taxes for county purposes, maintained highways, and exercised general control over such affairs of local government as were not in charge of the vestry. Its authority extended over the county, which was sometimes divided into two or more parishes. The other important county officers were the sheriff (who, besides being a court official, was county treasurer) and the lieutenant, or commander of the militia. The original method of appointment in both vestry and county court was changed so that members came to be chosen in each case by the body itself.

We may note three points of contrast between the two systems of local government described above. (1) The principal functions of government (taxation, education, care of roads, public safety, etc.) were exercised in New England by the towns, and in Virginia by the counties. (2) In Virginia the conduct of local government was in the hands of a limited body of prominent men, while in New England the mass of voters participated more freely. (3) In New England the deputies sent to the colonial as-

The vestry.

The county court.

The county type.

Contrasts between the two types.

4 TOWN AND COUNTY GOVERNMENT

sembly were selected from the towns, while the members of the Virginia assembly (the House of Burgesses) were sent from the counties.

The result
of these
differences.

The New England type of local government gave the people much practical political education, while that of Virginia developed a class of intelligent, public-spirited leaders. These facts are of great consequence in colonial history, especially in that period when resistance to the English Government made Massachusetts and Virginia leaders in the Revolution.

The town-
ship-county
type:
location
and di-
vision of
powers.

The middle Atlantic colonies present a medium in climate, soil, and physical structure between the extremes of New England and Virginia. This is also true of the methods of settlement and the occupations of the people. Similarly, the type of local government developed in these colonies seems to be a compromise between the two types that we have been considering. It has been called the mixed or township-county system of local government. Like New England, the middle colonies had both townships and counties, but there was a much more equal division of powers between these units. At the same time, the county was not so important as in Virginia. In New York the township was more prominent than the county, while in Pennsylvania county officers performed the most important functions.

The colonial systems above described have been much modified. In New England it has been found convenient to enlarge the functions of the county and to diminish those of the town. In Virginia and throughout the South the township has become an increasingly important organization. Still, in each of these sections the system of local government now in use bears the stamp of its origin.

The origin
of local
govern-
ment in the
West.

In the Western States, the character of local government has been greatly influenced by the origin of the settlers. The general trend of population, as it moved westward

from the thirteen original States, was along parallels of latitude. Consequently, in the South we find the county type prevailing. Nowhere, however, does the pure town type exist, for the Northern States all have the mixed system. These States may be divided into two groups according as the town or the county is given more extensive functions. The States in the first group (Michigan, Illinois, and Wisconsin) have been influenced by the examples of New England and New York. In these States there is the annual town meeting of voters, where officers are elected and matters of town government are discussed. We have here the form of a pure democracy. A town board has general charge of town affairs. This group of States is also distinguished by the nature of their county boards, which are composed of supervisors elected in the various towns, villages, and wards. This supervisor system of county government originated in New York, in colonial times.

The supervisor form.

In the second group (Ohio, Indiana, Kansas, Missouri, Nebraska, Colorado, Oregon, and California) the county is of more importance in local government. There is no town meeting. A town supervisor (or board of supervisors or trustees) exercises some powers that would be exercised by the town meetings in other States. But here the county board exercises more of such functions; it has extensive powers over the poor, health, highways, taxation, etc. Unlike the county board in the other group of States, it is composed of members elected at large* or from districts of the county. They are few in number and are called commissioners.

The commissioner form.

In all the Northern States there is a group of other town officers besides the supervisors—clerk, treasurer, assessor, constables, and various minor officers and boards. The

* That is, each voter of the county may vote for the entire number of commissioners that are to be elected at any election.

6 TOWN AND COUNTY GOVERNMENT

county is the basis of court organization; so there is a judge, a sheriff, and a clerk of the court. Frequently we find several counties grouped into a district or circuit throughout which a single judge holds court sessions.

In some cases taxes are collected by the sheriff, but generally there is a county treasurer. Other county officers, most of whom are elected by the voters, are the superintendent of schools, the register of deeds, or recorder, the surveyor, and the coroner.

Villages.

As population becomes dense in certain localities, villages and cities are organized. Village government is sometimes entirely distinct from town government; sometimes it is united with the latter for general purposes, though sustaining its own officers for special purposes. In either case the governing body is a board with an executive head, generally called the president.*

Cities.

Cities have governments similar in general plan to those of villages; but there are more officers and their functions are more extensive. The conditions of city life give rise to new problems of government to which we shall give attention in a separate chapter.

Such, in bare outline, is the organization of local government in the States to-day. In the actual processes by which local government is carried on, towns, villages, and cities (or divisions of cities called wards) are regarded as divisions of the county. Counties are themselves divisions of the State. Now, there are some activities of government in which the local units alone are concerned, as in the maintenance of roads, streets, and bridges, and the care of the poor. But in many important matters the processes merely begin in the local units and are completed by the action of State officials. For example, taxation and election proc-

* Various terms are in use. In Pennsylvania there is the borough with a burgess at its head. In Virginia the corresponding organization is the town, with a mayor as executive officer.

esses involve both local and State governments. The same is true, in many cases, of the administration of justice and the maintenance of school systems. Hence, it will be necessary to take a general view of State government before considering how these operations are carried on.

SUPPLEMENTARY QUESTIONS AND REFERENCES

1. The history of local government in the colonies: James and Sanford, *American History*, 92-98; Thwaites, *The Colonies*, 55-58; Fisher, *The Colonial Era*, 60, 99, 167; Channing, *The United States of America*, 37-38; Wilson, *The State*, 449-458; Lodge, *A Short History of the English Colonies*, 48-59, 58-59, 414-417; Hart, *Formation of the Union*, 11-13; Bryce, *American Commonwealth*, 589-593; Bancroft, *History of the United States*, I, 285-286, 449.

2. For descriptions of local systems as they are at present, see Bryce, I, chapters 48 and 49; Wilson, *The State*, 524-538; Beard, *American Government and Politics*, 638-655.

3. Make a study of a town: (1) With a map, as to its location, size and shape.* Compare with other towns in the same county. (2) What officers has the town? For what terms are they elected? How are they paid? What general duties does each have? Is the town board a legislative or an executive body? (3) Is there a town meeting? If so, what business does it transact? Did you ever attend one?

4. Study the organization of a village government. In what respects does it differ from the town government? Why?

5. What is the area and population of the county in which you live? What is the county seat? Have you visited the county buildings? Who has charge of them?

6. How many townships are there in your county? Estimate the total number of local officers. How many counties are there in your State? Are they generally regular or irregular in shape? Compare counties of other States. (See Atlas.)

* In the West, the Congressional township, as determined by the United States Land Survey, frequently determines the boundaries of the town. See. pp. 280-282.

8 TOWN AND COUNTY GOVERNMENT

7. Make a list of your county officers, the length of term and salary of each. What are the principal duties of each?

8. Is the county board elected on the commisssioner plan or the supervisor plan?

9. To which type of local government does the system of your State most nearly conform? Account for its origin.

CHAPTER II

STATE GOVERNMENTS

As town and county governments in the thirteen colonies were modelled upon ideas and practices derived from England, so the central government of each colony took form upon the plan of England's central government. And this plan may be seen to-day in the governments of our States and in that of the United States: all have the division into three departments—legislative, executive, and judicial—the legislature generally being composed of two branches. There were many variations among the colonies in the details of government, but at the time of the Revolution there was one important point of likeness: viz., each had an elective representative assembly. Moreover, it had become established in practice that the assembly should legislate upon matters affecting the internal welfare of the colony, and especially that it should exercise the vital function of levying taxes. Thus was erected in each colony the form of a free government, while the habit of self-government became established through the neglect of England to interfere seriously with the powers exercised by the colonial assemblies.

The general plan of colonial governments.

We may further analyze colonial governments by classifying them upon the basis of the method by which the governor obtained his office. There were three forms: Republican, the people electing the governor (Connecticut and Rhode Island); Proprietary, the governor appointed by the proprietor (Maryland, Pennsylvania, and Delaware); Royal, the king appointing the governor (the eight remaining colonies).

Classification of colonies.

How State
constitu-
tions came
about.

The Revolution transformed the colonies into States, the new State governments being formed in 1776 and the next few years.* One of the first steps in this process was the formation of written constitutions. It was natural that these should be framed in the new States, because the colonial assemblies and officers had become accustomed to exercising their powers under the superior authority of their charters. So in each State a written constitution seemed necessary as a fundamental law, outlining the framework of State government. The constitution of a State, then, is its supreme law, so far as purely State authority is concerned. All laws must conform to its provisions; all officers take oaths to support it. It is the duty of the State judiciary to see that official acts stand in conformity with it.

Origin of
State con-
stitutions.

The States admitted into the Union after the adoption of the Federal Constitution (1789) used that instrument as a model to some extent. But still greater was the influence of the old State constitutions upon the settlers from the East who were so rapidly building the new commonwealths of the West. So, while the constitutions of all the present States show, by their great similarity, their common origin, there are variations that may be traced backward along lines of westward migration to their sources in the original States.

Constitu-
tional
conven-
tions.

State constitutions have generally been made in State conventions composed of delegates chosen for that purpose. In some States new constitutions have been made in this way to supersede old ones. When an entirely new constitution has not been considered necessary, amendments have been adopted; these have been framed either by the State legislature or by a State convention. In most cases, whether in the adoption of a constitution or of an amendment, a vote of the people is an important step in the process.† So it may be said that State constitutions proceed from the people.

* James and Sanford, *American History*, 157, 158. Connecticut and Rhode Island continued their charters in force as constitutions.

† This was not the case in the adoption of their constitutions by the thirteen original States (except Massachusetts); nor in the adoption of new constitutions by South Carolina, Mississippi, and Louisiana.

Analysis of
State
constitu-
tions.

The contents of State constitutions may be grouped under three heads. (1) The Bill of Rights, which is patterned after the earliest State constitutions and the first eight amendments to the Federal Constitution. By these provisions the fundamental civil rights of citizens are secured, such as the right of free petition and assemblage, fair trial by jury, exemption from unjust searches and seizures, freedom of religious worship, and freedom of speech and of the press. (2) The outline of the frame of government, showing the organization of the legislative, executive, and judicial departments, with general provisions as to their powers and the manner in which they are to be exercised. (3) Miscellaneous provisions. In recent years there is a marked tendency to increase the number of subjects treated in the State constitutions and to make more detailed regulations. Some new constitutions are of much greater length than the old ones, and are really general laws rather than mere frames of government. The purpose of these provisions is to limit the powers of the State legislatures.

Legislative
powers.

State constitutions confer all the law-making powers upon the legislatures. These bodies do not attempt to exercise all such powers, but delegate local authority to other legislative bodies in school districts, villages, towns, cities, and counties. The county board and the city council, for example, are legislative bodies, but they derive all their powers from general or special laws framed by the State legislature.

Organiza-
tion of
State
legisla-
tures.

State legislatures are invariably composed of two houses—the Senate and the House of Representatives or Assembly. The first of these houses has a smaller number of members than the second; the members have longer terms than in the lower house, and the qualifications for membership may be higher. Members of the legislature are chosen from districts, and the redistricting of a State

is made necessary at stated times by the shifting of population. This is done by an apportionment act. An especially unfair apportionment is called a "gerrymander" (see pp. 134-135).

The committee system.

In all but a few States the sessions of the legislature are biennial. Methods of procedure are quite similar in all legislatures. A proposed law is called a bill. When a bill is introduced in either house, the presiding officer (usually called the Speaker in the lower house, and the President in the upper) refers it to a committee. Standing committees are appointed in both houses, to each of which bills upon a certain subject are referred. This arrangement facilitates business and gives opportunity for more full consideration of the bills.

How laws are enacted.

A committee has almost absolute power over the bills in its charge—to amend them, to substitute new bills in their places, or to keep them. They may take testimony and hear arguments upon the bills. When they report back a bill to the house, they recommend either its passage or its defeat, and usually the house follows the recommendation. Only a few of the important bills are fully debated in either house. After passing one house a bill is taken to the other, where reference to a committee and other procedure follows as in the first house. A bill that passes both houses goes to the governor for his signature, when it becomes a law. He may, however, veto the bill; then it must pass each house again by a larger majority (usually two-thirds) if it is to be enacted into law.

Restrictions upon legislatures.

No State constitution attempts to give a list of the powers of the State legislature, but there is always a list of limitations upon its authority and upon the privileges of its members. These restrictions may be grouped under several heads. (1) They may limit the length of sessions and the method of paying members. (2) Special, local, and private legislation are prohibited upon certain

subjects (such as city and corporation charters) and carefully guarded upon others. (3) All financial legislation, such as taxation, and the borrowing and appropriation of money, must be enacted under close limitations.

Besides the restrictions upon legislatures mentioned above, many other constitutional provisions and laws have been enacted having the same effect. (1) The practice of lobbying has been placed under strict control. Persons who attend sessions of a legislative body for the purpose of using influence looking toward the passage or defeat of certain bills are called lobbyists. Many good measures are made possible in this way; but most of the bad measures are the result of successful lobbying.

The legislative lobby.

It is in this way that the agents of corporations and "special interests" have at times worked their will in legislatures. Especially when campaign contributions have been made by these business interests (see pp. 51-52) they have demanded favorable legislation as a reward. Members of legislatures have been tempted by bribes or threatened with ruin. So privileges have been voted that were worth millions of dollars, to the entire neglect of public welfare. At times legislators have introduced bills that threatened to injure the business of a corporation, for the purpose of securing from it payment for defeating these very bills. This is called *blackmail*. Corporate influence in government is a power "for which our language contains no name. We know what aristocracy, autocracy, and democracy are; but we have no word to express government by moneyed corporations."

Corporate influence in government.

(2) Other laws provide the severest penalties for bribery and blackmail in connection with the passage of laws. (3) In some States the giving of passes by railroads has been prohibited, as tending to influence legislation.

The enactment of the laws mentioned above indicates an increasing lack of confidence in legislatures. The people cannot entirely shift the blame for this condition upon their representatives, since, through elections, they can

What is popular government?

themselves determine the character of their law-makers. We are accustomed to speak of our system as government "by the people"; but it is only in town and school-district meetings that all the voters assemble and legislate directly; and even these meetings do not exist in all sections of the country. Generally, therefore, law-making is a function of representative bodies, which are the village and county boards, city councils, State legislatures, and the National Congress. Hence we have not a pure, but a representative democracy, or a republic. This will be "government by the people" only if our representatives reflect accurately the opinions of a majority of the people.

Representative government.

The Referendum.

One way of testing this question is through the "Referendum." This consists of the requirement that when a certain number of citizens petition for it, a law must be submitted to the people for ratification or rejection. The idea of the referendum is in use in local governments when the people vote upon such questions as the issuing of bonds, the licensing of saloons, or the adoption of municipal ownership. But there is now a demand for its use with reference to any law passed by a legislature, upon the plan stated above.

The Initiative.

Another device intended to make legislatures represent the people more accurately is the "Initiative." If a certain per cent. of the total number of voters petition for a law, it must be considered by the legislature; or, it may be placed before the people for acceptance or rejection, without the intervention of the legislature. The adoption of the initiative and referendum brings about "direct legislation" in the matters to which they refer.

Proportional representation.

By "Proportional Representation" is meant the distribution of the members in a legislative body among the political parties in the same proportions as the voters are distributed. Frequently, one party has a number of repre-

sentatives that is entirely out of proportion to its voting strength. This is because we elect representatives from districts. If the voters of two parties are quite evenly distributed throughout a State, one party may have a majority in so many districts that the voters of the other party will not be adequately represented. Numerous devices have been proposed to correct this matter, but none is in general use.

It is interesting to think of forty-eight State legislatures at work simultaneously upon the same general problems of public welfare. Their laws touch the interests of the people most directly; for we come into contact with the laws of the National government, passed by Congress, in comparatively few ways. But the most important business and social relations of life—buying and selling, holding, leasing, and inheriting property; the domestic relations of husband and wife, parent and child; the regulations necessary to make the people secure in health and comfort—all these fall within the sphere of State government. “Space would fail in which to enumerate the particular items of this vast range of power. To detail its parts would be to catalogue all social and business relationships, to set forth all the foundations of law and order.”

The wide
scope of
State laws.

Now, there are two aspects in which we may regard this mass of State laws. (1) Each State may fit its laws to peculiar local conditions. This is one of the admirable features of our system of government. (2) But too much diversity is an evil. There are some subjects upon which greater uniformity is desirable, especially in matters of business law. This is because an increasing number of business men and corporations have interests in more than one State. Numerous State legislatures have enacted uniform codes covering certain branches of commercial law.

Diversity
and uni-
formity of
laws.

SUPPLEMENTARY QUESTIONS AND REFERENCES

1. James and Sanford, *American History*. Origin of the Assembly in Virginia, 45; in Maryland, 47-48; in Plymouth, 53; in Massachusetts, 56-58; in Connecticut, 61-62; in Carolinas, 78; in Pennsylvania, 81. General discussion of colonial governments, 133-134; 136-138.

2. For fuller information concerning colonial governments, see Fisher, *Colonial Era*, 208-211; Sloane, *French War and Revolution*, 10-12; Thwaites, *Colonies*, 58-63, 192-193, 271-277; Hart, *Formation of the Union*, 5-10, 13-17, 80-81; Fiske, *Critical Period*, 65-69; Channing, *United States of America*, 26-36, 84-85; Wilson, *The State*, 458-469.

3. Did colonial governors have the veto power? Hart, 9. What was the governor's power over sessions of the colonial legislature? Thwaites, 59. What were the relations of colonial legislatures to royal governors? Fisher, 209-210.

4. Were any State constitutions formed before July 4, 1776? Channing, 84-85. How long did Connecticut and Rhode Island keep their charters as constitutions? Why was this? Channing, 36.

5. What is the history of the framing of your State constitution? Were the framers influenced by the example of another State? Compare the Declaration of Rights with Amendments I-VIII of the U. S. Constitution. Why should these provisions be included in both State and National constitutions?

6. From your State constitution and legislative manual get facts concerning the State legislature—its composition, sessions, officers, etc. Why have two houses in the legislature? Do you think members of the legislature should be required to live in the districts they represent?

7. What are the rules governing apportionments in your State? Was the last apportionment fairly made?

8. What is the process by which laws are enacted? Can you give reasons for the existence of the committee system?

9. In what ways does the constitution place limitations upon the State legislature? Give reasons for each of these limitations.

Do they indicate popular distrust of the legislators? If so, for what reasons? Who is responsible for this condition?

10. For general discussions of State constitutions and governments see Bryce, I, chapters 36, 37, 38, 40; Beard, American Government and Politics, 445-452.

11. State legislatures are discussed in Bryce, I, chapter 40; Beard, chapter 25; Atl. Mo., 94 : 728-739.

12. Direct Legislation, the Initiative and Referendum, Wilson, The State, 310-312, 326-327, 488-490; Bryce, I, chapter 39; Beard, 461-469; Arena, 35 : 507-511; 36 : 52-54 600-603; 38 : 288-295; 39 : 131-141; Atl. Mo., 97 : 792-796; Indept., 57 : 1277-1278; 64 : 1191-1195.

13. Popular Government in Oregon, N. Am. Rev., 184 : 69-74; Indept., 68 : 1374-1378.

14. The Corruption of Government by Corporations, Arena, 30 : 55-68; Bribery, Its Cause and Cure, Indept., 55 : 829-832

15. The Belgian System of Proportional Representation, Arena, 50 : 591-597.

16. A Lobbyist for the People, World's Work, 15 : 9599-9601; Corporations and the Public, Outlook, 85 : 71-77; Justice to Corporations, *ibid.*, 88 : 118-120; Punishing Corporations, *ibid.*, 88 : 862-867.

CHAPTER III

STATE GOVERNMENTS (*Continued*)

Executive
department
of the
State.

WE have seen (p. 9) that the powers of State governments fall under three great departments—legislative, executive, and judicial. In the preceding chapter the legislative function was discussed. The execution of the laws of a State is vested in (1) local officers; these, besides executing the laws of towns and cities, also carry out the provisions of general State laws upon such subjects as elections, taxation, and the trial of cases in courts. (2) There are also State executive officers—the governor, secretary of state, attorney-general, treasurer, and numerous others. Besides these, there are often boards and commissions. In most States there is a lieutenant-governor who is the presiding officer of the State Senate, but who otherwise has few duties to perform. Like the governor, he is elected by the people for a term varying in length from one to four years.

Duties
of the
governor.

The powers and duties of the governor may be stated under several heads. (1) He reports to the legislature upon the condition of the State, and recommends legislation. (2) He has power to convene the legislature in special session. (3) In nearly all States a bill must have his signature before it becomes a law. He may delay or defeat its passage by his veto. (4) The power of pardoning, or of lessening the punishment of criminals, is generally vested in the governor. In a few States pardon boards have been created, either possessing this power or sharing it with the governor. (5) He appoints some minor State officers and frequently the members of boards

and commissions. Confirmation by the Senate is sometimes required in these appointments. The governor himself is often a member *ex-officio* (that is, by virtue of his office) of these boards.

Besides these specific duties, constitutions require the governor to see that the laws are faithfully executed. Under this power the governor supervises the work of such State officers as are subordinate to him; and he has power also to punish by removal some of the local officers, such as mayors and sheriffs, when he considers that they have not performed their duties. If, however, the authorities of any locality are unable, because of riot or other public disorder, to carry on the ordinary operations of government, they may appeal to the governor to assist them in the execution of law. This he does by means of the State militia, of which he is commander-in-chief. The presence of a military force may enable the civil officers to restore order, or the commanding officers of the militia may temporarily supersede the civil authorities.

Executing
the laws.

The
militia.

In some States the number of State executive officers, besides the governor and lieutenant-governor, is so large that these, with the various boards and commissions, are grouped together into the *administrative* department. The secretary of state keeps public records, including official acts of the governor and acts of the legislature. The State treasurer keeps the money of the State. The attorney-general gives legal advice to State officers, and is lawyer for the State in certain cases. The superintendent of schools, or board of education, administers State laws regulating schools, teachers, and school money. The auditor or comptroller has duties in connection with State finances. No money can be paid out of the treasury without his order.

Adminis-
trative
officers.

Other officers or boards control the charitable and penal institutions of the State, and supervise the execu-

Boards
and com-
missions.

tion of the law upon certain subjects, such as health, railroads, labor, insurance companies, agriculture, mines, public works. It is customary, also, to have boards of examiners who issue certificates to persons competent to practise medicine, law, pharmacy, or dentistry. Diplomas of graduation from professional schools of good reputation are accepted as equivalent to these certificates.

How the
public wel-
fare is
guarded.

The protection and welfare of citizens depend in no slight degree upon the administration of law by these officers. By their action, abuses in a county jail or poorhouse may be corrected; an unsound insurance company may be compelled to withdraw from the State; factory hands may secure safe and comfortable rooms in which to work; a contagious disease may be checked; local officers may be compelled to furnish better school facilities or teachers. Even the pleasure of citizens is frequently provided for through fish commissioners, who plant fish in the rivers, and park boards, who preserve forests and streams from injury.

We have now seen that law-making in the State is primarily a function of the legislature, and that much authority to legislate upon local affairs is given to town, village, and county boards and to city councils. We have seen also that these laws are enforced by local officers and by the State officers whose duties have just been discussed. The third department of State and local government is the judiciary. In each State of the Union there is a complete system of courts for interpreting and applying local and State laws.

At the head of the judicial system there is a supreme court, or court of appeals, to which cases may be taken from lower courts for final decision. The highest court is usually composed of several judges, and its jurisdiction covers the entire State. It may either confirm or reverse the decisions of lower courts, or it may order a new trial of a case. At the bottom of the judicial system there

are justice courts for hearing cases of minor importance arising in the town, village, or city. Justices of the peace preside over these courts.* Between the highest and the lowest courts there is always one and sometimes there are two or three grades of courts. Each is given jurisdiction within a certain district and over a certain class of cases. Each possesses, in addition, the right to review and control the proceedings and processes of lower courts. Frequently probate business, the settlement of the estates of deceased persons and related matters, is given to a separate court called the probate court.† In large cities a distinct series of courts becomes necessary.

Judicial
systems of
the States.

Important changes have come about since the establishment of the older State governments in the appointment and tenure of judicial officers. At that time judges were appointed by governors or elected by legislatures, and their terms were for life or during good behavior. With few exceptions judges are now elected by the people for comparatively short terms. Many writers condemn this change, claiming that it has resulted in lowering the standard of ability and integrity among judges. It is said that popular elections make it possible for men of strong political following, not necessarily the ablest and most upright, to secure places upon the bench. Others claim that appointment of judges and life tenure are undemocratic; that the present methods are necessary to secure complete popular government. The judicial, no less than the other branches of government, it is said, should be brought, through elections, into frequent contact with the popular will.

Popular
election
and short
terms of
judges.

Some general facts concerning State and local officers are worthy of brief notice. Popular election, rather than appointment, is the rule in local units and for the most

Frequent
elections.

* In cities the terms "police courts" and "police justices" are used.

† In New York this is the Surrogate's Court.

important State offices. Hence we have frequent elections and a corresponding opportunity for popular interest in and control of local affairs.

Two classes
of officers.

The number of State and local officers elected in this country is much larger than elsewhere. These officers may be classified under two heads: (1) Those whose duty it is to determine the *policy* of government; that is, to decide what is wise and beneficial for the public. Such officers are governors, mayors, members of legislative bodies, and judges. (2) There are many officers whose duties are quite exactly prescribed by law and who do not, therefore, exercise much or any discretion in the performance of them. Examples under this head are secretaries, clerks, registers, treasurers, surveyors, auditors, attorneys for governments, engineers, and police officers. It is contended that only the first group of officers should be elected; that those of the second group should be appointed by the others and held responsible to them.

The short
ballot.

The adoption of this idea would bring about the "short ballot" reform which is urged by the following arguments: 1. Many of the minor officers now elected do not deserve, and as a matter of fact do not receive, public attention. 2. So large a number of candidates in an election confuses the voter, who cannot become acquainted with them. 3. These minor officers are not subordinate to the more important ones, as they would be if appointed, hence their acts are not under strict supervision. When it is urged that the "short ballot" is undemocratic it is replied that a democratic government is one that is responsive to popular control, regardless of the number of officers elected and appointed respectively.*

All important officers are required to take oath (or affirmation) to "support the Constitution of the United

*See also p. 37. The only officers of the United States government who are elected are President, Vice-President, and members of Congress. "The long ballot with its variegated list of trivial offices is to be seen nowhere but in the United States. The English ballot never covers more than three offices, usually only one. In Canada the ballot is less commonly limited to a single office, but the number is never large."

States and the constitution of the State of _____ and faithfully to discharge the duties of the office of _____." Officers who have considerable responsibility, and especially those in whose custody money is placed, are required to furnish bonds for the faithful performance of their duties. Compensation of officers is either by salary, by fees, or by a combination of both. The removal of State officers during their terms is generally by process of impeachment. Appointed officers may be removed by the power appointing them, and in some cases local officers may be removed by the governor or by some other State or local officer.

Oaths,
bonds, and
salaries.

As we study the chapters that follow, it will be well to remember that the source of authority in local government is the State. The machinery of town, village, city, and county governments is created by State law, which endows them with all the powers they possess. At present there is a tendency toward the extension of State authority into local affairs by way of inspection and supervision, and even by complete State control. Matters formerly left to local governments entirely are being put under State regulation, either partially or completely. We shall find this true in the stricter supervision of public health by State officials; also in the control, now given to State boards and officers, over penal and charitable institutions. It is thought by some that State authority might be extended with advantage to the building of roads and the thorough supervision of school systems. The advantages of State control are these: the most capable officers can be secured; the methods employed may be uniform throughout the State; and the best methods can be extended to every section more rapidly than is possible when each local unit has the duty of investigating and adopting new methods for itself.

The State
creates and
regulates
local
powers.

Should
State func-
tions be
extended?

But centralization of power meets strong opposition

The benefit
of local
self-govern-
ment.

in most communities; for the exercise of local powers by local authorities is a fundamental principle deeply planted in the minds of American citizens. From this stand-point it is urged that the conduct of local government should be placed in the hands of officers who are directly responsible to the people most concerned. There results a degree of interest and of participation in local government that brings to the people much valuable education in politics. This problem—the right distribution of powers between State and local governments—is one that deserves attention from citizens who expect to participate in the governmental operations next described.

SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. Write in parallel columns the titles, names, terms, and salaries of the executive and administrative officers of your State. Make a list of the executive boards and commissions. Indicate whether these officers are elected or appointed.

2. Is the pardoning power wisely used in your State? Has the governor had occasion to call out the State militia? Why should the governor have the veto power?

3. The workings of the executive department in all its branches may be studied from the reports of officers that are printed by the State.

4. Are there in your State societies, semi-official in character, that receive financial aid from the State? What is the purpose for which each society is organized?

5. Outline the judicial system of your State, giving the names of the courts, the composition, sessions, and jurisdiction of each. What are the terms and salaries of the judges? What are the names of the judicial officers in whom you are most interested?

6. Do you favor appointment or election of judges? Short terms or life tenure? See Bryce, I, 504-511.

7. Is there a chancery court in your State? What matters

do chancery courts consider? What is included under the term "probate business"?

8. Obtain blank forms for official oaths and bonds.

9. Can you give instances of abuses arising from the fee system? In what cases is this system best?

10. How are vacancies filled in the various offices?

11. How would you proceed to bring about the removal of a certain officer for non-performance of his duties?

12. In most States, the building and maintenance of roads is purely a local function. Is this work successfully performed? Should the States aid in making good roads? Forum, 32 : 292-297.

13. The short ballot, Outlook, 92 : 635-639; 780-781; 829-831; 971-972; 93 : 896-897.

14. Compare local government in the United States with the system of France. Wilson, The State, 214-223. Which do you prefer?

15. Make an outline of the three branches of government in your State on this plan:

Government	Legislative	Executive	Judicial
State			
County			
Town			

16. General accounts of State governments are found in Bryce, I, chapters 41, 42, 44, 45; Wilson, The State, 500-524; Beard, chapter 24.

CHAPTER IV

CITY GOVERNMENT

The
growth of
large cities.

THE crowding together of people in large cities is the result of new industrial conditions that have come about in America since the beginning of the nineteenth century. The immense increase in the use of machinery driven by steam and electric power has made possible the modern factory system. Manufacturing is no longer a home occupation; its great establishments gather about them the workmen whose numbers swell the city populations. Improvements in transportation methods and means of communication have developed commerce, and thus enhanced the importance of the city, which is the centre of commerce.

Conditions
of city
life.

The mere presence of large numbers of inhabitants within a limited area makes the conditions of human life in a city quite different from conditions in rural communities. In the city we have the poor, the ignorant, and the vicious thickly populating wards adjacent to others where wealth and culture predominate. Contamination of air, water, and food threatens health on every side. Business life in a city is remarkable for the energy with which it is conducted, the enormous sums involved in its transactions, and the employment of workmen in great numbers. It is said that "in the jostling throngs of the city a careless or vicious member of society has a hundredfold more opportunity to disturb the comfort and endanger the health and well-being of his fellows than in the country."

Government must fit itself, both in the manner of its organization and in the execution of its functions, to these

conditions. We see, then, the necessity of government on a large scale, conducted by numerous officers, and involving the raising and expenditure of vast sums of money. At the same time, we find the entrance of governmental regulation into the minute details of the citizen's life. We can hardly expect to have so much complicated political activity without correspondingly difficult problems.

City government is complicated.

City governments in the United States are organized upon the general plan of the division of powers among legislative, executive, and judicial branches. But the details of municipal organization and administration are so various that a general description is almost impossible. The framework of a city's government is prescribed in a special charter granted by the State legislature, or in a general State law. In the latter case some uniformity is secured among cities of the same size in the same State.

The charter.

The city legislature is regarded as the most important part of its government. It may be composed of one or of two houses. The members are uniformly elected, generally from wards; where there are two houses, the members of the upper one may be elected from the city at large. In size, city councils vary greatly. The members are sometimes salaried, but more frequently they serve without pay.

The council.

The chief executive is the mayor, who is elected to office by the people. His term is most frequently one or two years, but the tendency is to make it longer. He sometimes presides over the meetings of the city council, and in most cities has the power to veto its ordinances. The executive and administrative powers of the mayor are much greater in some cities than in others. He is usually the head of the police department, and in this direction his authority is quite extensive.

The mayor.

The judicial system of a city generally includes two

The
judiciary.

kinds of courts: (1) the ordinary State courts (justice and district or superior courts); (2) special city or police courts. The jurisdiction of the latter is usually confined to minor cases. Juvenile courts exist in many cities.

Adminis-
trative de-
partments.

In a town or village government, the local board may have oversight at the same time of public health, charities, streets, sidewalks, and lighting. But as population grows more dense, these public interests increase in extent, complexity, and importance until it becomes necessary to make provision for the separate supervision of each one. Each of these subjects, then, will be assigned to an *administrative department*. These departments will be few in small cities, but numerous in large ones.

How they
are organ-
ized and
managed.

There are several ways in which administrative departments have been organized and managed. (1) In small cities, committees of the council undertake this work. (2) Separate boards or commissions composed of citizens not otherwise holding public offices may be the controlling bodies. Frequently such a commission or board will employ an overseer to superintend work that is in progress under its direction. Both of these methods of controlling city departments have serious faults that will be mentioned later. (3) There is a tendency to place each department under a single head, and to have this officer appointed by the mayor.

We have now reviewed the general plan of organization for the government of most American cities. How have our city governments worked? On the whole, very poorly; indeed they have been regarded as the weakest part of our entire government system. But within recent years there have been encouraging signs of improvement. Some of the faults and failures of city government will now be considered and the remedies and steps in recent progress will be discussed.

(1) One constant source of evil in our cities has been the

mingling of State and National politics on the one hand with city affairs on the other. Men have been elected to city offices upon the basis of National issues; voters have adhered to party tickets, regardless of the issues involved in city problems, or of the merits of candidates. The result has been the election of inefficient or dishonest officials. These men, being elected by party machinery, have paid their political debts by appointing unfit men as their subordinates, and by otherwise turning the business of the city to the advantage of those through whose efforts they were elected.

City officers
elected
upon the
basis of
party
politics.

One remedy for this situation is the separation of city and National politics in municipal elections. This is difficult to accomplish. But if candidates are still nominated by the regular parties, then independent voting will often secure the best available officers. There has been a marked tendency in recent years for voters to cast their ballots independently of party affiliations. Another remedy suggested is a reduction in the number of city officers elected—the “short ballot” principle (see p. 22).

Independ-
ent voting.

(2) Not only party politics, but personal greed has often dictated the selection of city officers. Men have secured these positions by election or appointment when they saw opportunity for “graft” through the dishonest handling of public money. Or, when work was to be done for the city, these officers have been paid for using their influence in favor of contractors, who in turn make dishonest profits. Again, individuals and corporations wishing to secure privileges from city governments have spent money for the election of officers who would do their bidding. Such has been the practice of some who obtained franchises for street railways, lighting, and water supply plants.

Evil influ-
ences in
city gov-
ernment.

Shameful scandals have arisen in these ways when the mass of citizens, engrossed in their private affairs, have become indifferent to public business. Nothing but vigi-

lance in the selection of officers and constant watchfulness in attention to municipal affairs will remedy the evils here mentioned. There are hopeful signs of progress in this direction in many cities of our country.

Lack of
responsi-
bility.

(3) City governments may fail to work smoothly because of improper organization of city administrative departments. When a committee or board is in control, there is difficulty in locating responsibility among its members; these are apt to shift the blame for bad management from one to another, and when responsibility rests upon several, no one feels its burden seriously.

The con-
centration
of all
executive
powers.

The remedy of placing each department under a single head is excellent in many cases. But if this head is appointed by the mayor and confirmed by the council another difficulty arises; for neither of these authorities may be willing to assume responsibility for his conduct. Some authorities believe that the complete separation of administrative departments (which really have executive business) from the legislative branch of the city government is the proper remedy: that the mayor should be given the entire appointing power and should then be held to complete responsibility for the conduct of the city's business. This is the plan of organization of most purely business enterprises, and its principle is being recognized in many city governments.

Civil
service
reform.

Another step tending toward purity in the control of administrative departments is the adoption of the merit system for subordinate officers. These officers have merely routine duties, or those of a technical nature, and they should be selected upon the basis of examinations intended to test their fitness, and regardless of personal or political considerations. These officers should be retained during good behavior, instead of being turned out at each change in administration. Civil service reform, as it is called, tends to eliminate party politics from city government; it

should help to place public interests above private, and to make methods of municipal government more business-like.

(4) Reference has already been made to the opportunities for evil that the density of population in a great city offers. This condition is aggravated when the police department is inefficient, through lack of proper methods of selecting police officers; or when politics (either party or personal) has such influence that it interferes with the strict performance of their duties. Police officers sometimes extort money from law-breakers under threats of arrest, and criminals are forced to pay for protection. These bad conditions are partly accounted for by the indifference of honest citizens who may know of their existence.

Difficulties
in the execution of
law.

(5) The administration of a city's finances tests, to the utmost, the quality of its government. The revenues and expenses of many cities exceed those of the States in which they are situated.* The raising and expenditure of these vast sums of money without the taint of fraud is very difficult. (1) When money is raised by taxation, we shall see in a later chapter how, by the undervaluation and concealment of property, many persons escape their just burdens. Such abuses are more difficult to detect in cities than in rural communities, where business is conducted with less privacy.

Financial
problems.

Taxation.

(2) The expenditure of public funds gives opportunity for the wrong use of this money. The citizens generally do not understand, and do not watch carefully, the processes by which their money is applied to the objects of city government. This is because expenditures are made in such a great variety of ways, and because the machinery of city government is complicated. The officers who are

The expenditure of
public
money.

* In 1908 the 158 largest cities of the United States (those having 30,000 population or more) spent a total of \$450,000,000. The per capita expense of their governments was \$16.81.

responsible for the expenditure of money are frequently unknown to the tax-payer. These officers are more indifferent to the existence of abuses in connection with city finances, and the pressure of public opinion is much less direct than it is in rural communities.

The table below shows the number of cities in the United States of more than 8,000 population for each census year, and the percentage of the total population living in those cities.

	Number of cities	Per cent. of total population		Number of cities	Per cent. of total population
1790	6	3.35	1860	141	16.13
1800	6	3.97	1870	226	20.93
1810	11	4.93	1880	286	22.57
1820	13	4.93	1890	447	29.20
1830	26	6.72	1900	545	33.10
1840	44	8.52	1910		
1850	85	12.49			

Why debts
are con-
tracted.

The question of finances is most serious in cities of rapid growth. For here the extension of streets and other public improvements offers opportunity for advertising the city and so building up its business as well as increasing the value of its real estate. Consequently, there is always excuse, and frequently necessity, for the contraction of debts, and the proposition to issue bonds is easily carried by popular vote. In most States, limits have been set, either by law or by the State constitution, upon the amount of debts that cities may contract.

The grant-
ing of
powers to
cities.

(6) Attention has been called to the fact that all local governments derive their powers from the State. The city is a political corporation created by an act of the legislature. Two evils have arisen at this point. (1) The powers granted have not been ample enough, so that cities have found themselves unable to do things that seemed

best for their welfare. (2) State legislatures have passed special laws granting particular cities their charters and have afterward legislated for these cities by special acts.* The corrective for this evil has been applied in a majority of States, where special legislation for cities is prohibited; cities must be organized and their powers must be defined by *general* laws. These laws apply uniformly to cities of the same class, as determined by their population. "Home rule" for cities, within the limits of these general laws, seems a reasonable demand. This demand will become more insistent as public opinion becomes better organized, and this will come as a result of increased attention paid by the mass of citizens to municipal affairs. This spirit of local self-government may even demand the right of the people to frame and adopt their own municipal charter; and this method of organizing a city, or of adopting a new charter, has been followed in some instances.

The ques-
tion of
home rule.

(7) The problem of municipal franchises is one of the most difficult in the government of our American cities. It is generally recognized that because of the circumstances under which water, light, and transportation facilities are furnished, the industries that furnish these necessities tend to become monopolies.† Little or no competition between rival plants is possible.

Natural
monopolies.

At one point these industries are different from other

* New York City has suffered greatly from this evil. A recent writer says: "The city of New York is governed from the State capitol. Scores of laws are passed every year relating to matters of purely local interest and of minor importance. A bill for a park in a densely populated portion of the city is introduced at Albany, and perhaps passed with little regard as to whether the city or the people of the locality desire its enactment. . . . This mass of legislation, which flows into Albany from New York and from every other city, overburdens the State legislature. If every bill of local interest were thoroughly considered, nothing else could be accomplished, and the interests of the State would be neglected."

—Municipal Affairs, IV, 452, Sept., 1900.

† See Ely, Problems of to-day, chapters 18 and 19.

The granting and provisions of franchises.

enterprises: their operation involves the use of the city streets. Because the streets are public property, the right to construct and operate a plant is given in a franchise granted by the city council. A franchise is in the nature of a contract, the parties to which agree upon the obligations assumed by each. An individual or a corporation obtaining a franchise agrees to furnish a certain quality of service. If this is not done, the penalty may be the forfeiture of the franchise. Practically, however, it has been found very difficult to enforce strict adherence to the terms of agreement, by legal procedure. The rates to be charged for service may or may not be stated in the franchise. If they are not, the patrons have little protection from extortion. The justice of fixing rates in a franchise depends upon the length of time for which it is to operate. The growth of a city through a long term of years brings immense advantages to the industries that we have under discussion; for the greater population can be served at only slightly increased cost to the owners of the plants.

How public service interests influence city affairs.

It is a consequence of these conditions that in many cities the operation of these plants has yielded excessive profits to their owners. Now, for securing by franchise the right to establish one of these public service plants men have been willing to invest large sums of money in the way of campaign contributions to control elections, and by bribery to control city councils. Again, the person or corporation already possessing a franchise often desires the extension of the time of its operation or of the rights granted by it. Social, business, and political pressure of every nature may be used to attain the desired end. The result is that public officers, instead of being public servants, become the tools and agents of private interests.

"Stock watering."

When the rates or charges are excessive and dividends are large in consequence, corporations may resort to "stock watering" as a means of concealing the true state of affairs. That

is, new shares of stock are given away or sold at a nominal sum, generally to those who already own stock; so the per cent. of gain on each share is less, though the rate of profit on the money actually invested is still unreasonably high.

Such being the conditions under which public service plants have been operated by individuals and corporations, the question has been freely discussed, Should not the city itself own and control these industries, and furnish the service to the people at cost? Two alternatives are presented: public ownership and operation, or strict control by city or State authorities.

(1) It would seem that the degree of corruption attending the granting of municipal franchises is a strong argument for municipal ownership. (2) It may also be argued that since the city would not operate these plants for profit, rates could be made lower than under private ownership. (3) Municipal ownership is urged as the best means of awakening the interest of the people in city affairs.

Argu-
ments for
municipal
ownership.

In opposition to this policy it is said (1) that the same corrupt influences that are used to secure franchises would be employed to bring about, through elections and appointments, control of a municipal plant. Would not such a plant be operated for the political advantage of the party in power? (2) Private ownership, it is urged, would best secure economical management. The personal interest of obtaining profits would not operate to keep down expenses in the case of a municipal plant. (3) The advocates of private ownership point to some cases of failure where municipal ownership has been tried. They argue that the success of this plan in European cities is no criterion for our own country. On the other hand, statistics and testimony of successful municipal ownership are produced from some American cities.

Argu-
ments for
private
ownership.

Those who do not accept municipal ownership as a desirable solution of the problem advocate various ways

Methods of
control of
public
utilities.

of controlling the operation of plants under private or corporate ownership. The following regulations* are recommended:

(1) No franchise should be granted for a longer term than twenty-one years.

(2) The grantee should pay a fair price for the privileges secured; and, in addition, a percentage on net receipts.

(3) At the end of the term, the franchise should revert to the public; the right of the city to acquire the plant, with or without compensation, being reserved.

(4) The financial accounts of the grantee should be matters of public record, and should be open to examination by an officer of the city.

Funda-
mental
problems in
city gov-
ernment.

It may be apparent from the foregoing discussion of the problems and evils of city government that the fundamental difficulties are two: (a) faulty organization, and (b) lack of the proper civic pride in the body of citizens. In the matter of organization, progress is being made toward less State interference with city affairs, civil service reform, and the concentration of power and responsibility in fewer officers.

The com-
mission
form of
govern-
ment.

Within recent years the "commission plan" has been adopted in numerous cities. The essence of this plan is the abolition of the present division of legislative and executive functions; they are united in the hands of a small body of officers, which thus takes the powers of both mayor and council. Its adoption is now optional with cities in many States.

This plan originated in Galveston, Texas, in 1901, and a modification of it was soon afterward put into operation in Des Moines, Iowa. In Galveston a commission, composed of five salaried members (one being mayor), was elected at large for terms of two years. This body had both legislative and executive duties,

* Adapted from "A Municipal Program," 127.

each member being in charge of a department of the city government. Superintendents were employed to oversee the work under the various departments.

Among the arguments in favor of this plan are these: (1) City government is chiefly a matter of administrative business, rather than the laying down of general policies, which belongs to State and National governments. Good administration requires the concentration of power in the hands of a few persons, as in the case of business corporations; these persons should have the power both to determine and to execute the plans they consider wise.* (2) Under this concentration of power, responsibility is readily located. (3) A few men who are experts can be employed, at good salaries, to devote their entire time to city affairs. (4) A better type of city officers will thus be selected. (5) More civic interest will be aroused.

Arguments
for and
against
this plan.

In opposition to this view, it is claimed that : (1) Such great power should not be lodged in the hands of a few men. (2) Certain parts of a city, or certain classes of people, would not be adequately represented. (3) This is a movement away from democracy. (4) It offers opportunity for corrupt men to do injury commensurate with their great powers.

The adoption of the commission form is usually accompanied by the enactment of certain measures by which the citizens may freely assert their will in important matters. Such means are the *initiative*, by which they may demand that the officers take action upon a certain subject; the *referendum*, by which the people may approve or reject measures that have been passed by the council; and the *recall*—a device under which a certain number of voters may demand that an officer stand for re-election (against competitors, if any such appear) at any time during his term. The recall is based upon the idea, familiar in business affairs, that an employee should be held to account for questionable conduct at any time, regardless of the term of his appointment.

Popular
control of
officers.

The recall.

It may be safely asserted that whatever plan of organi-

* Those who advocate the "short ballot" believe in the commission plan of city government. See p. 22.

The neces-
sity for an
active pub-
lic spirit.

Foreign
population

How cities
are extend-
ing their
functions.

zation a city may adopt, its government will be efficient and pure only when an active public spirit directs the selection of good officers and holds them to high standards of action. The quality of this public spirit will depend upon the interest of citizens in city affairs. Doubtless the creation of a unified civic spirit is rendered very difficult by the presence in many cities of a variety of nationalities. But the final responsibility for bad government cannot be placed upon our citizens of foreign birth; nor even upon the ignorant and vicious classes. It may be fairly maintained that "there is not a city in the Union in which the honest, orderly, and industrious voters are not in a large majority." Citizens need, above all, to feel a unity of interest in good government. They need to feel the necessity of co-operation in civic improvement, private opinions and selfish interests giving way to public welfare. The attainment of this ideal is a matter of slow growth; and the new and unsettled conditions of rapidly expanding cities retard this growth. In the end, good city government will be brought about only by constant and patient attention to civic duty on the part of citizens.

The growth within recent years of a better public spirit in cities is indicated by new conceptions of the possible services that a city government may render to the people. In addition to measures safeguarding public health through proper sanitation, cities have begun to establish public baths and systems of medical inspection in schools. Public parks and boulevards have long been recognized as proper means of providing for recreation; public playgrounds and gymnasiums are now being added. Many cities have regularly established an administrative department in charge of these means of recreation. School systems and libraries, long the sole means of public education, are being supplemented by vacation schools, municipal art galleries, public lectures, and concerts. The need of

proper opportunities for social life is being supplied by the use of school-houses as "social centres." Attention to the arrangement and architecture of city buildings and the beautifying of homes and streets, is another indication of the new civic feeling that is growing up in these times.

Many of the reforms and improvements that have been accomplished in city government are the results of study and agitation undertaken by such organizations as the City Club of Chicago, the Municipal Reform League of Boston, the Municipal League of Philadelphia, and the Good Government Clubs of New York. Numerous State leagues and the National Municipal League give opportunity for discussion of municipal problems, besides spreading information by their publications. The public schools have a part to perform in fostering the newly awakened civic spirit of the times. Preparation for the performance of the citizen's duties is becoming an important part of school work. Thus we see that the forces are at work which will ultimately solve the problems of city government.

Reform
move-
ments.

Similar industrial changes have caused the same rapid growth in European as in American cities. Between 1870 and 1890, Berlin grew faster than New York, Hamburg faster than Boston, Munich faster than St. Louis.

The gov-
ernment of
European
cities.

The general character of municipal government in European cities differs in several respects from that of our American cities. There the government occupies a place of greater importance. Its functions are more extended, covering besides the activities mentioned above municipal lodging-houses, markets, slaughter-houses, pawnshops, savings banks, etc. Moreover, the terms of officers are longer and their tenure is more secure. Hence, office holding in some places comes to be a distinct profession for which training is required. In Germany mayors are frequently employed by one city after another as the heads of business corporations are in this country.

Party politics plays less part in the affairs of European cities than in the United States; they have, consequently, less cor-

ruption among city officials. The idea of a trained and permanent civil service is universal. Greater public interest and higher ideals of city government may be found in European cities.

SUPPLEMENTARY QUESTIONS AND REFERENCES.

Make a study of your (or a neighboring) city on the following points:

1. Economic reasons for its location and growth.
2. Time and circumstances of its incorporation. The original limits. Reasons for subsequent enlargement of the city.
3. The city legislature—name, number of members. How are they elected? For what terms? Are they paid? Do you think changes would be desirable in these respects? Can you make a general statement concerning the occupations and qualifications of members?
4. The executive—title—term—salary. What are his powers of appointment? Has he the veto power? Should his powers be increased?
5. Judiciary—courts—officers—jurisdiction.
6. How many administrative departments are there? Are they under the control of committees, boards, or single heads? What is the relation of each department to the mayor? to the council? Outline the work of each department. Does the present arrangement work successfully?
7. Obtain a statement of the city's finances, showing receipts and expenditures. Is there a bonded debt? How is it managed? Is there a sinking fund?
8. What is the relation existing between this city and the State government? Would more "home rule" be desirable, or less?
9. How are the water, lighting, and street-car plants managed? Would you change the system? Do you favor the extension of the city's functions in other directions?
10. What kinds of street pavement are used? What is the best kind? How much does it cost?
11. What method of garbage disposal is in use? How are the streets cleaned? Are these methods effectual? Can students

in the public schools help in keeping the city clean? Can they do anything toward beautifying the city?

12. What is the organization of the police department? Can you recommend improvements? If an officer fails to enforce an ordinance, what course would you take to secure its enforcement?

13. Does your city have to deal with problems of the slums and tenement houses? Is there a large foreign-born element? Would you recommend any limitation of the suffrage?

14. Are independent or reform movements successful in this city?

15. What are the excellent features of the city's government? What are its faults? What reasons can you assign for its excellencies and its failures?

16. Organize your class as a city council and pass ordinances that you think beneficial.

17. The most useful books on city government are the following:

Bryce, *American Commonwealth*, I, chapters 50-52; II, chapters 88, 89; Conkling, *City Government in the United States*; Wilcox, *The Study of City Government*; Devlin, *Municipal Reform in the United States*; Tolman, *Municipal Reform Movements*; Bliss, *Encyclopedia of Social Reform*; Riis, *How the Other Half Lives*; Howe, *The City, the Hope of Democracy*; Beard, *American Government and Politics*, chapters 27 and 28; Zueblin, *American Municipal Progress*; Rowe, *Problems of City Government*; Goodnow, *City Government in the United States*.

18. For arguments for and against municipal ownership, see the following: Arena, 30 : 392-400; 504-509; 32 : 461-471; 33 : 361-369; Indept., 53 : 2632-2636; 55 : 93-96; 60 : 449-452; 1153-1157; Outlook 82 : 504-511; Rev. of R's, 33 : 724-725; 35 : 329-333.

19. The commission form of city government. Arena, 38 : 8-14; 144-149; Cen. Mag., 42 : 970; Indept., 63 : 195-200; Outlook, 85 : 834-835; 839-843; Rev. of R's, 36 : 623-624.

20. Civic beauty. Indept., 54 : 1870-1877; World's Work 11: 7191-7205; Rev. of R's, 38 : 355-357.

21. City playgrounds. Indept., 65 : 420-423; In Chicago, Outlook, 81 : 775-781.

22. Juvenile courts. Indept., 58 : 238-240; Rev. of R's, 33 : 304-311.

23. Fire protection in cities. Outlook, 88 : 681-693; Rev. of R's, 38 : 703-713.

24. European cities. Rev. of R's, 41 : 752-753; Comparison with American cities, Scribner's Mag., 40 : 113-121. German cities, World's Work, 15 : 9913-9920; Outlook, 83 : 618-620.

25. Articles upon particular cities. Brookline, Arena, 32 : 377-391; Detroit, Outlook, 91 : 206-216; Chicago, Outlook, 92 : 997-1013; New York, Rev. of R's., 40 : 594-601.

26. Miscellaneous. The ideal city, Outlook, 93 : 141-142; Better business methods, Rev. of R's, 37 : 195-200; Civic betterment, Rev. of R's, 39 : 77-81; Smoke problem, Rev. of R's, 39 : 192-195; Citizenship in cities, Outlook, 82 : 271-273; City elections, Outlook, 89 : 371-375; Expansion of municipal activities, Arena, 33 : 128-134; Problems, Indept., 59 : 902-908; The budget, Outlook, 92 : 1048-1059; The menace of crowded cities, World's Work, 16 : 10268-10272.

CHAPTER V

ELECTIONS AND PARTY GOVERNMENT

IN the local and State governments of our country the number of officers elected is very large and the terms of office are short; hence elections are of frequent occurrence. Town, village, and city elections generally occur in the spring of the year, while State and county officers are elected at the same time with members of Congress, on the Tuesday after the first Monday of November in the even-numbered years. There are, however, some exceptions to these general rules.

Times of
elections.

Since suffrage qualifications are fixed by the different States,* there are many variations in details, though general agreement prevails upon the fundamental requirements. (1) The age at which a person may vote is uniformly twenty-one years. (2) Manhood suffrage is usual, but a few States have granted full suffrage to women. In most States of the Union women vote at school elections. (3) It is usual to require a residence of six months or one year in the State where a person wishes to vote; also, a brief term of residence in the election district. (4) Full United States citizenship is required in a majority of the States. In the others a foreigner who has declared his intention to become a citizen is given the right to vote.

Suffrage
qualifica-
tions.

The right of suffrage is withheld from certain classes of citizens, such as the insane and the feeble-minded, and

* The National government controls suffrage in the States through Amendment XV of the United States Constitution; also, indirectly, through Article I, section 2, clause 1. Section 2 of Amendment XIV might, if it were enforced, act as a restraint upon the States in their restrictions of the suffrage. See pp. 142-143.

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those who have been convicted of certain crimes. One hundred years ago there were property qualifications for voters in every State in the Union. The democratic movement of the first third of the nineteenth century swept these laws away. At present the payment of a tax is a requirement in a few States. An educational qualification has been fixed in a few of the Northern and in several Southern States.

Woman suffrage.

The question of full woman suffrage is attracting attention, partly as the result of agitation carried on in Great Britain, where women vote for all elective officers except Members of Parliament and now demand the latter privilege. In most European countries, women have more or less limited privileges of voting; generally they must be property owners, have certain incomes or be engaged in business. In Australia and New Zealand they have full suffrage rights.

Registra- tion.

Within recent times great changes have taken place in the manner of conducting elections in the United States, as the result of efforts to check wide-spread election abuses. Among these abuses was "repeating"; that is, voters went from one polling place to another, voting at each. It was comparatively easy to commit this fraud in large cities; the enactment of registration laws has materially checked this evil. At a stated time before an election the voter must have his name and residence recorded with the election officials. The registry lists are published so that false registration may be detected. Such laws exist in a majority of the States, though their action is in some cases confined to the larger cities, and here the laws are sometimes not strictly enforced. As each ballot is cast the voter's name is checked in the registry list. Voters who have failed to register may "swear in" their votes; that is, take oath that they are qualified electors. This opens the way to fraud and is consequently prohibited in the

large cities. In the main, it is recognized that registration must be a feature of every good election system.

Many other forms of election abuses were checked by the adoption of the Australian ballot system, which now exists in all but one or two of the States. Under former election methods, each political party printed its own list of candidates, or the tickets might be printed by individuals. A variety of frauds might then be committed. A number of tissue-paper ballots were sometimes folded together and cast as one ballot. Candidates could have ballots printed like those of the rival party with the exception of one or two names. Or, slips of gummed paper (called "pasters"), with the name of one candidate, could be fastened upon the ballots. In these and similar ways ignorant and careless voters were often deceived. Hence we now have the *official ballot*, printed by the government, on which the names of all the candidates must appear. Another essential feature of the Australian ballot system is secrecy. The ballots must be obtained from election officials within the election booth; screened shelves are provided to which the voter must immediately take his ballot and mark it. He must then fold and cast the ballot without communication with any but election officials. "Electioneering" is prohibited within or near a booth.

The Australian ballot system.

Two forms of the official ballot are used, as illustrated below.

(1) The original Australian ballot form.

For Governor.

	Party.
A. B.....	Democratic.
C. D.....	Prohibition.
E. F.....	Republican.

For Lieutenant-Governor.

	Party.
G. H.....	Prohibition.
I. J.....	Republican.
K. L.....	Democratic.

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For Assemblyman.

M. N.....	Republican.
O. P.....	Democratic.
Q. R.....	Prohibition.

(2) The modified American form.

State Officers	Democratic	Prohibition	Republican	Individual Nominations
Governor.....	A. B.	C. D.	E. F.	
Lieutenant-Governor	I. J.	K. L.	M. N.	
Member of Assembly.....	O. P.	Q. R.	S. T.	

More intelligence and care are required in the use of the first form; the second form favors the voting of straight tickets.

In spite of these reforms in election methods and the devices for preventing fraud and bribery, there still exists a considerable amount of illegal voting. This is possible in great cities, where there is a large floating population;* also in certain States, where the parties are nearly equal in strength. Corrupt election officials sometimes violate even the most carefully framed regulations of law. These officials are ordinarily selected from the two leading parties. Challengers, who also represent parties, are allowed to question the right of any person to vote.

The
canvass.

After the polls are closed, the counting of votes, or official canvass, takes place. Returns from the election precincts are sent to the city, county, and district canvassing boards to be tabulated. The results are then sent to the State canvassing board. Each board has authority to decide which candidates are elected within

* Hence the term "floaters" for purchasable voters. These may be "colonized," i.e., temporarily located in a certain ward for voting purposes.

its jurisdiction. Certificates of election are issued to successful candidates, and thus the process of election is completed.

An election is but the final step by which the voters express their judgment in selecting men for office. Two other steps, both vital in their importance, must be discussed in gaining a view of the entire process: *viz.*, the making of nominations and the management of political parties.

The work of nominating candidates, the conducting of political campaigns, and the general oversight of party interests in an election, are all in the hands of a series of committees organized in each of the political parties. Thus, each party has a local committee in every town, village, and ward. There are also, for each party, city committees for the management of party machinery in cities; county committees; a State committee, which controls campaigns and determines party policy in the State; and, finally, a National committee for the management of each National party organization. Besides these, there may be committees for each State Senate and Assembly district, and for each Congressional district. All except the local committees are appointed in the party conventions.*

Party
commit-
tees.

The two principal methods of making nominations are (1) the caucus and convention system and (2) the primary election system. Within recent years the latter has displaced the former in many of the States, for reasons that will be stated.

A caucus, or primary, is a meeting at which all the voters of a party in a town, village, or ward may assemble. Before the election of town, village, and ward officers, caucuses will nominate candidates directly. For all but these local elections (*i.e.*, for the nomination of county,

The caucus
or primary.

* This account represents the party organizations as complete; they are not so in many parts of the country.

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Political
conven-
tions.

State, and National officers) a second step is necessary; the caucuses choose delegates to conventions where these nominations are made. Thus, before a general election, we have county conventions for the nomination of county officers; various district conventions, where candidates are nominated to run for the State legislature and for the National House of Representatives; State conventions, composed of delegates chosen at county or district conventions; and, finally, in years of presidential elections, there are still other series of caucuses and conventions, culminating in the great National conventions, where presidential nominees are selected. (See p.216.)

Besides nominating candidates for offices, the various conventions mentioned elect party committees and adopt party platforms. The platforms contain statements of party doctrine and pledges of party policies.

Character-
istics of
the system.

One characteristic of the caucus and convention system is that the mass of voters participate in the process only in the town, village, or ward caucus. Elsewhere, they are represented by delegates or committees. In conventions of the largest units (State, Congressional district, and National conventions) the delegates are twice removed from the voters. Another feature of this system is its complexity. To nominate the various groups of officers in a "general election" year, two, and sometimes more, series of caucuses and conventions are held. Because of these facts, abuses have arisen in connection with this method of making nominations.

Defects of
the
system.

Usually much less than one-half, and in many places less than one-tenth, of the voters attend the primaries. This is accounted for by the indifference of some, the ignorance of others, and the inability of still others to understand the complexities of this method of making nominations. Again, caucuses are in many instances capable of being manipulated by political leaders to suit their own ends. In the next place, there is no assurance that the delegates elected by a caucus will fulfil the wishes of

a majority of the voters. This is especially true when conventions elect delegates to still other conventions. There is no way of holding a delegate responsible for representing accurately those who chose him. In conventions, then, skilful politicians may bring pressure to bear upon delegates to direct their votes from the line of public into that of private interest. This may be done by bribery, by the trading of votes, or by promises of business or political advantages.

Because of these abuses, a demand arose that voters select candidates *directly*, through the primary election system, instead of indirectly through delegates.* Where this system prevails, nominating conventions are abolished. Any person who secures a certain number of signatures to a petition (or "nomination paper") can have his name placed upon the party ballot that is used at the primary election. On the day of this election, each voter may vote directly for the men whom he wishes to be his party's candidates for the various offices. The names of the men who receive the highest number of votes will be placed upon the official ballot used in the regular election.

The
primary
election
system.

It is thought that through primary elections (1) candidates will more truly represent the choice of the mass of voters in a party; (2) that because they vote directly for candidates the voters will take more interest and participate more freely in the nominating process; and (3) that it will be more difficult for men to further selfish ends through the manipulation of a few delegates.

Its advantages.

* "The movement was in part a democratic one, and was animated by a desire for wider popular participation in government. In this sense it was a part of a broad tendency in the direction of popular control over all the agencies of politics. The referendum, the initiative, the recall, and the direct primary are organic parts of a general growth of democratic sentiment, demanding methods by which more direct responsibility of the governor to the governed be secured. . . . In the last ten years [1898-1908] about two-thirds of the States have enacted direct primary laws of various types. Some of these laws have been obligatory and others optional; some have been general in application and others merely local."—Merriam, Primary Elections, 69-70.

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In States having the primary election system, conventions are still held for the purpose of selecting party committees and for the adoption of party platforms. Such conventions may be composed either of delegates or of the candidates already nominated.

Nomina-
tion by
petition.

It will be noticed that both of the nominating systems discussed above assume that candidates represent political parties. When non-partisan candidates are desirable, then another method is in use—nomination by petition. Any person securing a certain number of signatures to his petition may have his name placed upon the election ballot. This is done frequently in the election of judges and school officers, and is becoming more common in city elections. For voters more often break party lines upon city issues than was formerly the case.

The work
of political
parties.

A part of the work of political parties is referred to in the preceding paragraphs. They are organizations of voters which (1) help to determine public policies through the adoption and carrying out (or refusing to carry out) party platforms; (2) they take charge of the nomination of candidates for office; (3) they conduct campaigns in order to secure victory in elections; and (4) they constantly exert influence upon the conduct of the officers who make and execute our laws. It would seem that the sole object of a political party is the securing of certain policies in government through the election of certain men to office; and that in the long run the government in the hands of the victorious party should reflect the views and follow the wishes of a majority of the voters in that party. But these theoretical propositions are subject to many modifications in practice. Unfortunately, the absorption of the voter in his private affairs makes him too often indifferent to the conduct of government. In the second place, the great body of voters in a party, even if they have the inclination, have very inadequate means of originating a policy or impressing their views upon men in office. The

result is that *the management of political parties falls into the hands of a comparatively few men*. They urge policies upon voters; they select the men who become candidates; they conduct the machinery of campaigns; and they either become the officers themselves or control those persons in office whom they have placed there.

A few men can control a political party by thorough organization. They have their subordinates in different localities, and these in turn have subordinates who carry out orders from their superiors. A thoroughly organized body of political workers who dominate a party in this way is called a "machine." Its operations are generally directed by a "ring" or a "boss."

A few men
may
control.

Now, the motives that inspire the machine and the methods it employs may be either good or bad. Organization, leadership, and machinery are always necessary to secure harmonious action in bodies of men. But the opportunities for corruption in our party system are many; so that the politicians who will make freest use of corrupt means to gain their ends are very apt to succeed, when those who are less unscrupulous will fail. Consequently, the phrase "machine politics" is generally understood as referring to political methods that have little to recommend them, if they are not thoroughly bad.

Machine
politics.

The work of parties cannot be accomplished without the expenditure of money—sometimes the sums are many thousands of dollars. This is contributed by candidates, by private individuals, and by the representatives of business houses and corporations. Here is one important source of corruption in our government; for those who contribute with selfish ends in view, rather than from principle, expect rewards at the expense of public interest. So great have evils of this kind become that many "corrupt practices acts" have been passed intended to check them. Besides providing severe punishment for bribery

Corrupt
practices
acts.

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and the buying of votes, these laws require the publication of campaign expenses by candidates. In some States corporations are prohibited from making campaign contributions. Limiting the amount that may be contributed or expended is another way of combating this evil.

The voter's
duty in
politics.

All such laws and all real reforms in the laws regulating parties and elections are excellent. But laws and constitutions merely indicate the *form* of our government; its *spirit* may be very different if the provisions of law are nullified in practice. Experience shows that this is very liable to happen wherever the mass of citizens become indifferent to the conduct of public affairs. The voter can exert his influence in many ways, within his party, for good government. He can sometimes best serve his party by turning against it; for the fear of such independent action may restrain party leaders when nothing else will.

SUPPLEMENTARY QUESTIONS AND REFERENCES

1. In your State—

What are the times fixed for elections?

The qualifications of voters?

The legal regulations governing registration—the ballot—provisions for secrecy—election officers—the official canvass?

2. What method of making nominations is most usual in your State? Are other methods allowed? What are the advantages and disadvantages of each?

3. Why are women given the right to vote in school, municipal, or financial matters only, in some States?

4. Do you believe in a property qualification for voters? An educational qualification?

5. Find in a newspaper almanac the list of States that prescribe educational qualifications for voters; also, property tests. In what States have women been given full suffrage?

6. The laws of a number of States permit the use of voting machines. See Forum, 28 : 90-93.

ELECTIONS AND PARTY GOVERNMENT 53

7. Follow in detail the steps leading to a general election in your State:

- (1) Notices of election—when and by whom issued.
- (2) Action of party committees.
- (3) Method of nomination of county and State officers and Representatives in Congress.
- (4) Party platforms.
- (5) Conduct of the campaign—raising and expenditure of money—distribution of literature—political speeches, etc.

8. Should women be given the full right of suffrage? *Atl. Mo.*, 96 : 750-759; 102 : 196-202; *Forum*, 43 : 264-268; *Indept.*, 58 : 1309-1311; 68 : 686-689; *N. Am. Rev.*, 183 : 484-498, 1272-1279; 186 : 55-71; 189 : 502-512; 190 : 158-169; 191 : 526-536, 549-558; *Outlook*, 82 : 167-178; 91 : 780-788; *Rev. of R's*, 36 : 479-482; 38 : 94-95; 39 : 626-627.

9. Negro suffrage. *Atl. Mo.*, 88 : 433-437; 94 : 72-81; *Indept.*, 55 : 2021-2024; *Outlook*, 87 : 529-531.

10. Nominating Systems and Primary Reform. *Arena*, 35 : 587-590; *Forum*, 33 : 92-102; 42 : 493-505; *Outlook*, 90 : 383-389; 91 : 426-428.

11. Ballot and election reform. *Indept.*, 68 : 1020-1026; *N. Am. Rev.*, 189 : 35-42.

12. Our party system is discussed in Bryce, II, chapters 53-75; Bliss, *Encyclopedia of Social Reform*; Beard, *American Government and Politics*, chapter 30.

CHAPTER VI

PUBLIC FINANCES

Why taxes
are neces-
sary.

THE operations of government cannot be carried on without the expenditure of money. To meet this expenditure, those who are benefited by the protection and security that government affords must be taxed. Moreover, as the functions of government are extended to include the furnishing of conveniences and the maintenance of institutions that instruct and elevate the people, increased outlays of money become necessary, and, consequently, more extensive taxation. The raising and expenditure of public money is, then, a subject of the greatest importance.

State and local governments raise money in various ways, the principal ones being by taxation and by borrowing. Methods of taxation will first be treated.

(1) The general property tax. This form of tax exists in all the States. It is based upon the theory that each person's contribution to the support of government should be in proportion to the amount of property that he owns. The first step in determining the amount of taxes he shall pay is the placing of a *valuation* upon his property; this is done by local or county officers, called assessors.

Valuation
of property.

The assessment roll contains the name of each taxpayer, with a list of his property and its value. State laws usually require that this be full cash, or actual, value; but undervaluation is the rule rather than the exception. Since the amount of an individual's taxes depends upon the assessed value of his property, it is natural that property-owners should frequently think that their assessments are too high. They are accordingly allowed to

appeal to a local board, which has the power to review and correct assessment rolls by lowering or raising valuations. The board may also add to the list of property recorded on the roll, and may strike out property that is illegally assessed.

Now, just as there is difficulty in fixing satisfactorily the valuation of each individual's property, so a similar difficulty is experienced in adjusting valuations among the villages, towns, and cities. For the county and State taxes that each local unit must pay depend upon its total valuation. Each assessor is tempted to keep valuations low in order that his local unit may not be heavily taxed. To remedy this difficulty, a county board of equalization is provided, which has the power to raise and lower valuations, as shown in the assessment rolls. In some States this board may change individual valuations; in others simply the total valuation of each local unit. Again, we have a like difficulty in the next step of the process. The amount of taxes which the property-owners of a county will be called upon to raise for State purposes will depend upon the valuation of the property in the county. Consequently, county authorities are apt to think it incumbent upon them to see that their valuations are low, so that their State tax will be low. To correct this tendency toward undervaluation, State boards of equalization have been established in many States, with power to review the county assessments and to place them on a basis of relative equality.

Equaliza-
tion of
valuations.

The rate of taxation is determined in each local unit. To the total amount necessary for purposes of the local government is added its share of the State taxes that this local unit must bear. This sum is divided by the total valuation of all the property in the local unit. This gives a percentage which is the tax rate. Applying this rate to each person's valuation determines the amount of tax he is to pay.

How the
rate of
taxation is
calculated.

The property-owner pays taxes but once each year, and he seldom knows what share of his payment goes toward the support of each government that taxes him. In some States the payment is made to the local treasurer,

Collection
of taxes.

and in others to the county treasurer or collector. When local treasurers collect taxes they deduct the amount raised for local purposes before sending the balance to the county treasurer. After the amount levied for county purposes has been kept out, the county treasurer sends the balance to the State treasurer, and thus the process is completed. The failure to pay taxes renders property *delinquent*. It may then be seized and sold. After taking the amount due for taxes and expenses, the remainder, if any, is returned to the original owner.

Exemptions.

Some descriptions of property are quite uniformly exempted from taxation; such are, all property belonging to Federal, State, or local governments, and the property of educational, religious, scientific, and benevolent associations. In some States, also, a certain amount of the personal property, such as the household furniture, of each property-owner is exempt from taxation.

How this system works injustice.

The faults found in the general property tax system are serious. (a) Undervaluation is very common and produces great injustice. If, in a given community, all property were uniformly undervalued, no injury would result; this would simply raise the rate. But certain individuals may secure, either through fraud or error, lower valuations than others having the same amount of property. Again, the man of small property is more likely to have his assessment placed near its actual value than is the man of wealth. The assessment of property is more accurate in farming communities than in cities. This places a heavy burden upon the farmer.*

(b) Another evil of this form of taxation arises from the fact that personal property quite generally escapes taxation. Property is divided into two classes: real estate,

* It was estimated by a California commission on revenue and taxation that the farmers paid in taxes five times as much in proportion to their income as was paid by manufacturers.

which includes land and the fixtures thereon, as buildings and improvements; and personal, which includes all other property. Under the head personal property are placed furniture, clothing, jewelry, merchandise, farm products, live-stock, machinery, books and pictures, money, stocks, bonds, mortgages, notes, and credits. It is apparent that many of these things have values that an assessor cannot easily ascertain by inspection; other articles mentioned in the list are easily concealed. As a consequence, the appearance of personal property on the assessment rolls, and its assessment at values that are anywhere near actual value, depend upon the honesty of property-owners. In most States, assessors may, and in some States they must, take a sworn statement from each property-owner as to the actual value of his property; but this does not effectively correct the evil. Those who make complete returns are apt to be of the poorer class, besides trustees, administrators, and guardians who have legal control of property belonging to orphans, widows, and dependent persons; for the value of these estates is a matter of probate court record.

Most
personal
property
escapes
taxation.

It is apparent that our general property tax places an unjust burden upon the poor, the rural classes, the honest, and the helpless. It was adopted at a time when the distribution of property was more equal than at present, and before the growth of large cities and great industries. These new conditions demand new methods of taxation; but no single, practical substitute has been discovered and put into operation. Public interest has been aroused upon this subject, however, and some of the methods of taxation next discussed are intended to correct the inequalities of the property tax.

(2) The corporation tax. In a few States, a general corporation tax is imposed which is a fixed rate on the capital stock, or the earnings, of all corporations doing business

Corpora-
tion taxes.

in those States. Again, the rules of taxation applied to different classes of corporations may vary in the same State. The taxation of railroad property by local authorities has been quite generally abandoned, on account of the inequalities of assessment under this plan. In some States a special board values all railroad property in the State; in others this property is not taxed, but instead a tax is laid on the gross earnings, mileage, or capital stock of these corporations. Telegraph, telephone, express, and insurance companies are also subject to special taxes based on gross receipts, mileage of wires, etc.

Franchise
taxes.

(3) Franchise taxes are becoming increasingly common in the States. Individuals and corporations operating water, lighting, and street-car plants are considered as possessing valuable property in the right, vested in them by their franchises, of using the streets. This privilege, it is said, as well as their tangible property, is a source of their income, and so should be taxed.

Reasons
for inheri-
tance taxes.

(4) Inheritance taxes are especially designed to reach the property of the very wealthy. It is believed that large fortunes result not merely from individual industry, but quite as much from the growth of the communities where they are accumulated. Hence the community should share in the distribution upon the death of the holder. Again, it is assumed that an undue proportion of these fortunes escapes the property tax; also, that their perpetuation in the hands of a few individuals is socially undesirable. This tax is easily collected, since probate court records state the amounts bequeathed. The rates are usually higher on collateral bequests, *i. e.*, those descending to others than the immediate family of the deceased. In some cases, also, the rates become higher as the amounts bequeathed become greater.*

* In a law of Wisconsin (1903) the rates vary from one per cent. to fifteen per cent., depending upon the degree of relationship and the amount inherited. California has a similar law.

(5) The income tax exists in a few States, but its use is being extended to others. It also is intended to reach the richer classes, since an exemption is always provided for the smaller incomes. Here, as with the inheritance tax, the rate should be made progressive, *i. e.*, the larger the amount taxed, the higher the rate of taxation.

Income
taxes.

(6) The poll tax, a fixed sum payable by male persons between certain ages, is collected in some States, though prohibited in others.

(7) Licenses. The greatest amount of revenue is derived under this form of taxation from liquor dealers. In addition, auctioneers, showmen, peddlers, hackmen, and draymen often pay license fees. Besides the revenue gained, the governments find the license system advantageous as a means of controlling these occupations.

(8) Government revenue is also derived by the exaction of fees for the performance of official services. These fees are frequently a perquisite of the officer performing the services; but many times it is found more economical to pay the officer a salary and turn the fees into the public treasury.

Fees.

(9) In cities, we find the practice of levying special assessments upon property that has been enhanced in value by virtue of some public improvement, as, the pavement of a street. This tax may be made to cover the greater part of the expense involved in making the improvement.

Special
assess-
ments.

Such are the various forms of taxation used by the State and local governments of this country. Two other sources of income are now to be noted: charges and borrowing.

When a government owns property that is used by individuals or corporations, a charge is made that becomes a part of public revenue. Under this head come the tolls collected for the use of roads, bridges, and docks; the income derived from the rent of land and water privileges; and the charges made for water, for lights, and

Charges.

for street-car transportation when the plants furnishing these conveniences are owned by municipalities.

Borrowing
by States
and cities.

The ordinary process by which a government borrows money is through the issuance of bonds. These are promissory notes bearing interest. It is customary to submit the question of issuing bonds to popular vote. The history of the debts incurred by many States shows the lack of wisdom sometimes displayed in this matter.* The bonded indebtedness of cities reaches an enormous figure. This seems necessary in most instances in order that future generations may share in the expense of public improvements which can be made most economically at the present time.

The
appropriation of
money.

Money brought into public treasuries by taxation and the other methods described is subject to appropriation by legislative bodies: town meetings, town boards, village and county boards, city councils, and State legislatures. Lack of wisdom, corruption, and extravagance may attend the making of appropriations by these authorities. Such abuses have brought about the enactment of constitutional restraints upon the character and amounts of appropriations that may be made. The debt limitations that are found in many State constitutions are similar restraints.

Auditing
accounts.

The actual expenditure of public money is made either by committees of the legislative bodies just mentioned, or by executive and administrative officers. A good system of public accounts requires that these officers shall be directly responsible to the local governing board or to a special officer called comptroller or auditor. The accounts of every officer who handles public funds should be audited; the sources of each part of the money received by him should be correctly acknowledged. He should pre-

* The rage for internal improvements about 1830 furnishes an example. American History, 300, 311.

sent vouchers, or receipts, for every amount expended, and each expenditure should be properly authorized by law.

SUPPLEMENTARY QUESTIONS AND REFERENCES

1. In your State, (a) who assesses property? (b) how are assessments equalized? (c) by whom and when are taxes collected?

2. What is the present rate of taxation in your locality? What parts of this rate provide for local, county, State, and school taxes respectively? To what extent is there undervaluation? Does personal property bear its share of taxation? What remedies do you suggest for abuses that exist in these matters? What is fundamentally wrong?

3. What forms of taxation are used in your State besides the general property tax? How does each operate? Is it successful?

4. Examine the financial reports of your local, county, and State officers to ascertain the sources of revenue and the purposes of expenditure. In each case, what is the process of auditing accounts?

5. For general descriptions of State taxation see Bryce, I, chapter 43; Beard, chapter 31; Encyclopedia of Social Reform, chapter on Taxation.

CHAPTER VII

JUDICIAL TRIALS

THUS far in our study of government we have had in mind chiefly the processes by which laws are enacted, and executed or administered. If all men could agree upon the exact meaning of these laws, and if all were disposed to obey them, little more government than has been described would be needed. Because neither of these suppositions is true, another distinct department of government—the judiciary—becomes necessary.

Civil cases.

Cases arise through differences in the interpretation of law and through its violation. There are two kinds of cases, civil and criminal. When one party to a suit (the plaintiff) brings action against the other (the defendant) for the protection or enforcement of a private right, we have a civil case. Some common examples of civil cases are those involving questions of the fulfillment of contracts; the relations of employer and employee; the possession of property; the collection of debts; and the validity of deeds and mortgages.

Criminal cases.

In a criminal case it is charged that a wrong has been committed, in most instances against an individual, but of such a nature that the public peace, dignity, and security are also affected. These criminal acts are defined by law, and penalties have been affixed to their commission. At the same time the injured person is generally entitled to compensation, or damages, for the wrong he has received. Because public interests suffer from the commission of crime, the State is plaintiff in all criminal cases.

Arrest.

The methods of procedure in ordinary cases are very similar throughout all the States. In a criminal case,

formal complaint must first be made before a justice of the peace or other judicial officer. A warrant for the arrest of the supposed criminal will then be issued. The arrest may precede these steps if the criminal is caught in the act. If the crime charged is a minor offence, the trial may take place at once in the justice or municipal court. A more serious offence, however, must be tried in a higher court—the district, circuit, or superior court of the county.

The constitutions of most States provide that no person shall be held to answer for a criminal offence of a serious nature unless on presentment or indictment of a grand jury. In those States, the justice court merely examines into the evidence sufficiently to ascertain whether the accused shall be held until the next session of the grand jury. This is composed of from twelve to twenty-three citizens chosen by lot from the county. Its sessions occur at stated times and are secret. The district attorney presents to it evidence against persons supposed to have committed criminal acts, and witnesses are brought before it, who are required to give evidence. If there is probability of guilt in any instance, the person charged is *indicted*; that is, he is held for trial. He may be imprisoned, or released on bail. A bail-bond is signed by sureties, who agree to forfeit a certain sum of money if the prisoner does not appear at the trial.

The **grand jury**.

Indictment.

Bail.

The arrest and examination of accused persons by a local justice need not precede the action of the grand jury. The district attorney often produces evidence against persons who as yet stand unaccused; if the grand jury indicts them, they are at once arrested. The grand jury need not await the action of the attorney, but may proceed to investigate supposed cases of wrong-doing. If it concludes that certain persons should be brought to trial for offences, they are *presented*.

Presentment.

In some States the grand jury has been dispensed with, for ordinary cases, and all proceedings preliminary to the trial are conducted in a justice court, or other court inferior to the one having jurisdiction to try the case. These proceedings are called the *preliminary examination*. The lower court is given authority to decide, after hearing the evidence presented, whether the accused shall be held for trial. In extraordinary cases, however, provision is made for calling a grand jury.

Petit and
trial juries.

For the trial of cases in the principal court of a county, a *petit jury* is provided. The juries are summoned by *venire* and are obliged to be in attendance at the court during its session. When a case requiring a jury is called, a *trial jury* is selected by lot from the list of petit jurors. As the names of these are drawn, any juror may be *challenged* by either party to the case. He will be excused by the judge from serving on the trial jury if good reasons are shown. Each side is allowed to reject a certain number of jurors without giving reasons; that is, by *peremptory challenges*. The drawing of names must continue until twelve are secured who are eligible to serve in the trial of this case.

The
process
of trial.

In the meantime, witnesses have been *subpœnaed*, and the case begins by the direct examination of its witnesses by the prosecution. They are cross-examined by the defendant's attorney, and the testimony of the defendant's witnesses follows. Then come the arguments of the lawyers. The judge charges the jury as to the law that applies in the case, and it then retires from the court to decide what facts have been proved by the evidence. The *verdict* of the jury is followed by the *judgment* rendered by the court. If found guilty, sentence is pronounced against the prisoner, though the judge may, if the verdict grossly violates law or justice, set it aside. *Execution* of judgment is the carrying out of the court's decision by the sheriff or other executive officer.

Verdict and
judgment.

Throughout these proceedings the presumption favors

the innocence of the prisoner; the State must prove, beyond a reasonable doubt, that he is guilty. The judge decides legal questions that may arise concerning the conduct of the trial. Either party may make objections to these rulings, and the defeated party may make its exceptions to the court's decisions the basis for a demand for a new trial, or for an appeal to a higher court on *writ of error*. The supreme court, or court of appeal, examines the questions of law that are involved, and either confirms or reverses the decision of the lower court.

Appeals.

A civil case is begun by complaint of the plaintiff against the defendant. A *summons* is issued, calling the defendant to appear in court and make answer to the complaint. Cases involving small sums of money are tried in justice courts, and here the trial is sometimes without a jury, or with a jury of only six men. Cases involving larger amounts are tried in the principal court of the county, where the procedure is quite similar to that described in a criminal case. In the execution of a judgment against the property of a person, the constable or sheriff has power to seize and sell all property that is not exempt.

Trial of civil cases.

It is sometimes claimed by one party to a case that the community where the case arises, or the judge before whom it is to be tried, is prejudiced to a degree that renders an impartial trial impossible. A *change of venue* may then be granted; the case is carried to another court, or another judge is called in to preside at the trial.

Change of venue.

Many problems have arisen, in connection with the administration of justice, that demand the serious attention of citizens. Some of these we shall consider. (1) When the violation of law is a matter of common knowledge in a community, and no one is accused and held to answer, who is responsible? The basis of a warrant of arrest is a *complaint*, containing a specific accusation, and accompanied by the statement of the complainant, under oath,

The enforcement of law.

that in his opinion the accused is guilty. Now, it is the sworn duty of officers to obtain the information upon which a complaint may be based, whenever they know or have reason to suspect that the law has been violated. If they persistently neglect this duty, the sentiment of the community should compel its performance. But at times the public conscience becomes so blunted that officers accept or even extort payments from law-breakers for shielding them from punishment.

Difficulties
in law
enforce-
ment.

Not officers alone, but any citizen may make a complaint. But private citizens, particularly those who are most anxious to see the strict enforcement of law, find it difficult to discover sufficient evidence upon which to make a sworn statement. Besides, the prosecution of criminals by persons who do not directly suffer injury from the criminal acts, is likely to cause criticism that is distasteful and hard to bear. It is much easier for the average citizen to let such matters alone, and attend to his own private business. In the meantime, public funds may be stolen, or the health of the community threatened, or its youth put in danger of moral corruption—all for lack of a complaint, specific in its accusations, and supported by definite evidence. These reasons most frequently answer the question, "Why is not the law enforced?" At the bottom, it is a question of public conscience. In communities where a low moral standard prevails, a few determined leaders, willing to sacrifice time, labor, and comfort for the public good, have sometimes aroused the entire public to action. No service to the community could be more commendable than this.

The law's
delays.

(2) Other causes for discontent with our judicial system arise in connection with court procedure. There is sometimes the delay of justice through the postponement of cases for trivial reasons. Criminal cases may drag along for months until public interest subsides. In civil

cases a wealthy litigant may secure postponements until the resources of his poorer opponent are exhausted.

(3) The course of a trial in its various stages and sometimes the final decisions of judges are too often determined upon grounds that are purely technical. That is, the procedure or the decision follows some arbitrary rule, rather than doing justice according to the facts in the case. Many criminals escape punishment in this way.

Technical-
ities of the
law.

(4) Much evil in trials comes from the sharp practices indulged in by attorneys. These men are sometimes employed by those who can afford to pay the highest salaries, apparently for the purpose of finding loop-holes in the law and defeating its real purpose. This evil, as well as others mentioned, are possible partly because our legal system and our methods of conducting trials are unnecessarily complicated.

Legal com-
plications.

(5) Miscarriage of justice can in some cases be charged against judges, but this is quite exceptional. However, the short terms and small salaries of these officers subject them frequently to temptation.

(6) Numerous evils have crept into the administration of the jury system. The local officers who make the original lists from which petit jurors are drawn, are sometimes influenced in the selection of names by political considerations or by the pressure of business interests. In this way a jury may be "packed" in favor of one of the parties to the suit. The old method of making jury lists has been superseded in some States by the appointment of jury commissions composed of prominent citizens of the county, who make the lists under supervision of the court. Again, many citizens who are most competent to serve on juries, shirk the duty, giving trivial excuses or paying fines to escape performing the service. When a panel of petit jurors is exhausted, *talesmen* are summoned from the by-standers—a practice which is apt to admit

The jury
system.

Some
evils.

men who are wholly unfit for jury duty. Cases of direct jury bribery are, unfortunately, too common, especially in large cities. They are also very difficult to detect. Public opinion should be extremely intolerant of this crime.

It is almost a universal custom to require unanimity in the decision of juries;* thus one man may cause a case to fail of decision. While this is generally considered a wise provision in criminal cases, it many times results in the defeat of justice.

Good
features of
the jury
system.

It will be noticed that many of the evils mentioned in connection with the jury system are accounted for by bad administration of its details. The central idea of the system—the participation of citizens in the legal process of determining justice—is of very ancient origin. It was brought from England by the colonists, embodied in their legal codes, and inherited by both State and National governments. The publicity which trial by jury gives to legal procedure, and the educational influence upon those who participate in its workings, are advantages of great weight in its favor. Moreover, it is so firmly fixed in our legal and social fabric that its abolition would be a most radical measure. This fact renders imperative the correction of abuses, wherever they may be found, and the restoration of a pure ideal, in order that the jury system may not become a decadent institution.

Lynch-law.

No failure of government is more deplorable than the failure of justice. There have been times when communities, exasperated by the feeble efforts of officers and courts to bring violators of law to justice, have resorted to "lynch-law" as a remedy. This sets an example of lawlessness, the evil influence of which far outweighs any attendant good.

* In Nevada, Utah, California, and a few other States, a decision may be rendered by three-fourths of a jury in a civil case. In Idaho, five-sixths of the jury may render a decision.

Many legal controversies never appear in courts, because they are adjusted between the parties concerned through the efforts of the attorneys. Other disputes are voluntarily submitted to arbitrators by whose decision the disputants agree to abide. If more cases could be settled out of court, much expensive litigation would be avoided, and the cause of justice would not suffer. Efforts have been made to establish courts of conciliation in some States, but with little success.

Arbitra-
tion.

SUPPLEMENTARY QUESTIONS AND REFERENCES

1. What guarantees are contained in the constitution of your State safeguarding the rights of accused persons? Are similar rights secured in all countries?

2. As illustrating the process of trial, obtain and fill out blank forms for complaint, warrant of arrest, search warrant, subpoena, venire, execution, indictment.

3. Is the grand-jury system the best method of bringing offenders to trial?

4. What is the established method of selecting petit jurors in your State? Can you suggest improvements? Visit a court while in session, and observe the selection of a trial jury; also, the examination of witnesses. What fees are paid to witnesses and jurymen?

5. Find the meaning of the following terms: Damages, costs, stay of execution, injunction, certiorari, habeas corpus (see p. 209), quo warranto, mandamus.

6. Topics in this chapter are treated in Bryce, I, chapter 42; Beard, chapter 26. Encyclopedia of Social Reform.

7. President Taft. Delays and defects in the enforcement of law in this country, N. Am. Rev., 187 : 851-861; see also Outlook, 86 : 321-327. Arena, 32 : 471-480; Atl. Mo., 97 : 502-508; World's Work, 13 : 8221-8226.

8. The jury system, Rev. of R's, 37 : 607-608; Arena, 33 : 510-513.

9. The swiftness of justice in England, N. Am. Rev., 188 : 26-39.

CHAPTER VIII

CHARITABLE AND PENAL INSTITUTIONS

The support of paupers.

THE support of the destitute falls first upon their near relatives; when this resource fails, public charity becomes necessary. Much the greatest part of public relief is given by local governments. Where the town system is strong, the work is in charge of the town board or of a special town officer. In the South the county commissioners, or other county officers, administer relief. In many States, particularly in the West, both town and county are interested.

Out-door relief.

Two general methods of dispensing alms are practiced. (1) Out-door relief means the giving of aid at the home of the pauper. This is a convenient method in cases of temporary want, and in the relief of persons who are partially self-supporting. Many local governments make a practice of giving goods, or orders for goods, to paupers. In rural communities, where the circumstances surrounding every family are well known, this method of relief works satisfactorily. But in cities, and in the administration of relief by county officers, it is possible for individuals to impose upon the public by securing aid when it is not deserved. The evil here is not only that of stealing from the public treasury, but also the evil of pauperizing the individual and the family. This is a place for investigation and reform in many communities. Sentimental ideas of charity and loose business methods sometimes cause the harm of out-door relief to over-balance the good accomplished.

(2) In-door relief. Towns frequently pay for the support of their poor in private houses; and paupers are sometimes bound out to service on contract. But almshouses, or poor-houses, become necessary when the number of paupers is large. These are most usually maintained by counties and cities. When a poor-house is located on a farm, and when the inmates are kept employed in farming and other industries, these institutions become most helpful, and may also be partially or wholly self-supporting. The establishment of a poor-house sometimes has the effect of decreasing the number of paupers who apply for aid from a county.

In-door
relief.

Within recent years it has been generally recognized that children should not be kept in poor-houses with adults; since such surroundings are exceedingly demoralizing to child-nature. There are often State schools for dependent children, where education and some form of industrial training are provided for the inmates. Cities also have parental schools. Efforts are made to secure the adoption of these children, when of suitable age, into families.

Dependent
children.

For the sick and injured, medical attendance is provided by local governments. In the cities, hospitals are maintained at public expense.

Hospitals.

The question of providing for the unemployed in times of temporary distress is particularly difficult in the large cities. It seems necessary, at times, to establish free soup-kitchens and agencies for the distribution of food and clothing. Cities have sometimes provided employment upon public works in such cases.

The
unem-
ployed.

It is often difficult to distinguish between the homeless seeker for employment and the professional tramp, who might rather be included among the criminal classes. But in most places both are treated in the same way; that is, they are fed at the back doors of homes where they apply for help. The local government frequently gives

The tramp
problem.

72 CHARITABLE AND PENAL INSTITUTIONS

these vagrants food and lodging and then sends them on to the next town. Or, they may be arrested for vagrancy and sentenced to a term of imprisonment. Often the city or county keeps them during the winter in a poor-house or municipal lodging-house and releases them as warm weather approaches. None of these methods of treatment is satisfactory because no effort is made to test the vagrant's desire to obtain work, or to deter him from continuing to lead a life of laziness and dependence on charity. Cities that have established wood and stone yards, in which the applicant for assistance is compelled to earn at least a part of his support, find the number of tramps considerably decreased.

The support of the poor seems, at first glance, one of the simplest operations of government, but we have seen that numerous difficulties are involved. How can we aid the deserving poor, and at the same time avoid making them less willing or able to support themselves? The same question is, or should be, prominent in all cases of private charity; for if charity is unwisely given, it pauperizes the recipient and makes the evil we are trying to cure greater, rather than less.

Defectives. By the defective classes is meant the blind, deaf, and feeble-minded. These unfortunate persons are educated in public institutions. Public control of defectives is necessary on the grounds of education, public health, and public security. Because of the relatively small numbers included and the special treatment that is required, it is most economical for the State, rather than for the local governments, to care for them. Hence we have the excellent State institutions for the blind, the deaf and dumb, the insane, and the feeble-minded.

The insane. In no way can we measure the growth of the humanitarian spirit during the nineteenth century better than by contrasting earlier with present methods of treating

the insane. Formerly they were regarded as criminals, confined in foul prisons, and brutally treated. Insanity is now regarded as a disease, and scientific treatment results in the curing of a large proportion of the cases. Laws quite uniformly require judicial procedure for the committal of an insane person to an asylum. These institutions are conducted either by the local or the State government. In State hospitals the conditions are most favorable for the treatment of those who should be under the physician's care.

Within recent years a score of States have established asylums for feeble-minded children, where they receive proper educational and industrial training. In a few States there are homes for epileptics.

The feeble-minded.

It was formerly usual to have each charitable institution of a State administered separately by its board of directors or trustees. At present, however, central boards of charities exist in most States. These are of two kinds: (1) Advisory boards, that merely inspect and report recommendations, each institution having its own board of trustees. Such boards are most common, and are composed of unsalaried officers. (2) A board of control may administer the entire charitable system of the State, and appoint a superintendent for each institution. Such boards are also given power to inspect the construction and control of local poor-houses, jails, and asylums. The officers of these boards are salaried. The advantage of the system of central control is that through it the influence of high ideals and scientific methods may be felt in the local institutions.

State boards of charities.

Methods of punishing criminals have undergone great changes since the establishment of the older State governments. At the beginning of the nineteenth century the clipping of ears, branding with a hot iron, the stocks, and the pillory had not entirely disappeared. Prisons

Old methods of punishment.

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were foul pens. But the barbarous mutilation and public exposure of early times have passed away, and prisons are now conducted with some regard to the health and comfort of the prisoners. Instances are found in the excellent provisions for securing the good health of the inmates; for it is recognized that an unsound physical condition is often the foundation of a criminal nature.

Modern
prisons.

We now reject that theory of punishment which considers its only end to be retribution. The principle is generally accepted that for the protection of society the criminal must not be merely confined and punished, but *reformed* as well. Some practices introduced into State prisons indicate the progress of this idea. Prison libraries, reading-rooms, and study classes give convicts a chance for mental improvement. Very commonly, good conduct on the part of the prisoner will result in a reduction of his term of imprisonment. It has been urged that no fixed term of confinement should be set, but that the convict should be held in prison, until, in the judgment of the authorities, he is fit to be at large. This system is called the *indeterminate sentence* and has been generally adopted in reformatories, besides applying in some States to prison sentences.

Release on
parole.

In some States the prisoner may be released on parole or probation. He must find employment, avoid bad associations, and report periodically to a parole officer.

Reforma-
tories.

Great evil is wrought through the association in prisons of first offenders and persons of slight criminal tendencies with hardened criminals. For this reason we have State reformatories and industrial schools for boys and girls. Here they are given an education and taught useful trades. Recently, in some States, the younger and less hardened offenders among the men have been assigned to separate institutions where conditions are made as favorable as

possible for their reformation. If they show themselves incorrigible, they are returned to the State prison.

Recent years have seen the growth in cities of juvenile courts. It is recognized that most children in committing illegal acts are not intentionally criminal. The child's home, his training, and his environment are responsible for his misconduct. It results from misdirected energy which cannot find a proper outlet because of the lack of opportunity to play.* To arraign him in the police court is not only injustice, but may lead to further steps in a criminal career. "In the juvenile courts children are taken out of a purely criminal process and committed to one which is educational, and the court becomes part of the child-saving community."

Juvenile
courts.

It is generally agreed that the confinement of prisoners without occupation is both cruel and demoralizing. Several systems of prison labor have therefore been tried. 1. The *lease system*, common in some States, permits the sale of prison labor to the highest bidder. The prisoners may be employed either within or without the prison, and are subject to the control of their employers. In many instances they are employed in working mines and quarries, living in penal camps, where one would scarcely expect to find them surrounded by the proper reformatory influences. 2. Under the *contract system* the labor is performed within the prison, under the usual prison discipline. Some form of manufacturing is carried on, the contractors furnishing the foremen, the materials, and to some extent the tools and machinery. They pay a stipulated price for each day's labor performed by the prisoners. 3. The *piece-price system* leaves the work of prisoners under the supervision of prison officials, the contractors agreeing to furnish the materials and to pay a specified price for each piece of the finished product. 4. Under the *public account system* the State conducts the entire process of manufacture, as an individual might, disposing of the product on the market.

Systems
of prison
labor.

*"Over half the arrests of children in New York city are for playing games—in the streets." Outlook, 97 : 135.

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The prevention of crime and pauperism.

In the administration of charitable and penal laws we are at present concerned chiefly with relief, punishment, and reformation. But the systems employed too often tend to perpetuate the evils we wish to cure. With the spread of more rational ideas concerning pauperism and crime, public attention must be directed toward the *prevention* of both. As population becomes more dense in the United States, the problems assume greater proportions. We have found State control the most satisfactory method of managing the greater part of the curative processes; it may be suggested that the proper preventive measures are largely matters for private and local support. But the further study of this subject comes more properly within the field of sociology than within that of government.

SUPPLEMENTARY QUESTIONS AND REFERENCES

1. What methods of public and of private charity are employed in your community? Is there careful examination into the merits of cases? Is there duplication of charities? Which, the public or the voluntary work, is on the whole more effective?
2. What is your remedy for the tramp problem? See Rev. of R's, 37 : 206-212; 39 : 311-316.
3. Outline the system of State charities in your State. Can you suggest improvements?
4. Many old forms of punishment are described in Earle, *Curious Punishments of By-gone Days*.
5. What was the condition of prisoners at the beginning of the nineteenth century? McMaster, *History of the United States*, I, 98-104. When did prison reform come about? *American History*, p. 304.
6. What are the effects of exposing offenders to public gaze?
7. Do reformatories reform? *Outlook*, 89 : 806-810.
8. What is the penal system of your State? Look up the reports of State officers having charge of penal and charitable institutions.

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9. The indeterminate sentence, *Indept.*, 58 : 1052-1056.

10. For topics in this chapter see *Encyclopedia of Social Reform*; Wright, *Practical Sociology*; *Reports of Conferences of Charities and Corrections*.

CHAPTER IX

EDUCATIONAL SYSTEMS

THE maintenance of public schools is a function of the State governments. Though the National government has aided in this work, as we shall see, its authority does not extend over our systems of elementary and higher schools.

School systems are mainly under local control.

The States have left the regulation of school affairs chiefly to the local governments—counties, towns, cities, and school districts; but they still exercise more or less control over the school systems. There is great variety of arrangements for the conduct of school government in the different States, so that a general description is almost impossible. Three types may, however, be distinguished.

The district school system.

(1) Where the pure district type exists, each district supporting a single school, the chief authority resides in meetings of voters. These are similar to town meetings, but are held at a different time, since school business is kept distinct from town affairs. A small school board is elected, and school taxes are levied.

The township system.

(2) The town or township system gathers all the schools of a town under one authority; this may be a town meeting of voters for school purposes, or, districts may be retained as subdivisions of the town, with a school in each.

The advantages of this plan.

The township school system has some points of advantage, since under it there are fewer schools and these can be better graded and equipped. Higher salaries and better teachers are other advantages. Sometimes the township has but one school, centrally located. The difficulty of the school's distance from the homes of the pupils has

been overcome in some States by the transportation of children at town expense. This is cheaper than the maintenance of more schools, and the children gain advantage through being members of schools having larger attendance.

(3) In the Southern States, the county is divided into school districts, and county officers direct school affairs.

Where the district and township systems exist, it is usual (elsewhere than in New England) to have a county superintendent or board of education from whom teachers obtain certificates. These officers also exercise greater or less power of supervision over the schools of the county.

County
supervision
of schools.

In nearly every State of the Union there is a State superintendent, or a State board of education, or both. Methods of selection and organization are various. The superintendent or the board has authority to interpret and enforce the general school laws of the State; and to supervise, in a general way, the school system. An additional function is "the higher and far more important work of directing educational movements, of instructing the people, and of creating public opinion and arousing public interest."

State
supervision.

In school affairs, as in other matters of local government, each large city has its peculiar system. In many cities, the school system is managed as a separate department, and its workings are almost independent of the central legislative and executive machinery of the city. There are special times for school elections, and the school board is not responsible to either council or mayor. In other cases, different degrees of relationship exist between these authorities. School systems and courses of study are most highly developed in cities; here, too, equipments are most complete.

City school
systems.

Among the difficulties encountered in the management of school systems, two may be mentioned. (1) The introduction of party politics into school affairs is inexcusa-

Politics in
school
affairs.

ble. The popular election of county superintendents, for instance, has a tendency to make the office political, rather than professional. Often there is no educational qualification prescribed for this officer. The selection of members of the board of education in a city for political reasons may be detrimental to the best interests of the children.

The confusion of business and professional functions.

Another source of difficulty is the confusion of the business and the professional sides of school government. Boards of education are more competent to supervise business affairs, and so generally leave the determination of courses of study and methods of teaching to educational experts. But other professional affairs, such as the employment of teachers and the selection of text-books, too often remain within the jurisdiction of the board. This body frequently acts under the advice of the superintendent of schools, but in other cases professional interests are subordinated to business or political considerations.

Special features of school systems.

The policy of establishing public kindergartens in cities is spreading steadily. Manual training, domestic science, and commercial courses are being adopted and trade schools have been introduced in some cities. Separate schools for truants and for backward pupils are features of a few city systems. In most States there are compulsory education laws, applying uniformly to rural and city populations.

High schools.

Excellent systems of high schools have been developed in recent years. Those located in the large cities have their own courses of study and methods of management. But the high-school systems of villages and small cities have been fostered under uniform State laws.

The people of the United States are lavish in their expenditures for public education. In the year 1909 the entire amount of money raised for the support of the common schools was \$381,909,526.

Whence, it may be asked, was this enormous revenue derived? From several sources.

(1) The greatest part, \$259,000,000, came from local taxation. This emphasizes the fact, already noticed, that local governments have the largest share in the control of our common-school systems.

(2) About \$58,000,000 was derived from State taxation. The proportions of State and local taxes vary greatly in the different States. Some levy no State tax whatever for this purpose. Sometimes a certain per cent. is levied for school purposes on each dollar's worth of property in the State. This method of deriving school revenue is commendable because, in the poorer sections of a State, lack of revenue from local sources may keep the schools upon a low grade. The State school money can be distributed in such a way as to aid these poorer districts.

(3) The amount of school revenue yielded from miscellaneous sources, State and local, was \$42,000,000.

(4) Permanent school funds and rents form the fourth source of revenue—\$22,000,000.

The origin of these funds must now be accounted for. When the States laying claim to the territory north of the Ohio River and east of the Mississippi ceded their claims to the United States, Congress passed the "Land Ordinance of 1785" containing the following provision: "There shall be reserved the lot number sixteen of every township for the maintenance of public schools within the said territory." * The same purpose is seen in that provision of the Ordinance of 1787 which declared that "Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged." Nowhere do we find better stated the ultimate purpose of public education.

Origin of
school
funds.

* American History, pp. 189, 280-281; Hinsdale, *The Old Northwest*, 259.

**National
land
grants.**

The policy thus asserted was carried into execution whenever any State in which the United States owned lands was admitted to the Union. In each case section sixteen of each township was set aside for the support of the common-school system. Since 1848 each new State has received for this purpose both section sixteen and section thirty-six of every township. When, therefore, these lands were sold to settlers, the proceeds were gathered into permanent school funds; these were invested in interest-bearing securities, and the income derived therefrom is annually distributed among the schools.

**Other aids
to public
schools.**

These funds have been increased in various ways. To most of the Western States Congress gave 500,000 acres of land, to be devoted, originally, to the support of internal improvements. Some of the States have dedicated the proceeds of these lands to educational uses. Many States have received swamp and salt lands, which in some cases have gone to increase school funds. Since the National government owned no lands in the original States, they have not been benefited by its generosity in the donation of lands. But many of these States have set aside their own wild lands and in other ways have established permanent school funds.

**Higher
education.**

The colleges and universities and technical schools of the United States number 493. Of these, the greater number are supported by endowments and donations from private sources. Most States, particularly in the West, tax the property of their citizens to support State universities. The Federal government has been as generous in the support of higher education as in the aid granted to the common schools. When the sale of lands in the Northwest Territory was authorized, Congress provided that not more than two complete townships (seventy-two square miles) of land should be given to each State therein erected for the support of higher education. Every new

State in which the United States owned land has reaped the benefit of this policy, some having received more than two townships. In some of the older States, these lands and the common-school lands were sold at very low prices. Bad management in this respect, and in the care of the funds thus established, has caused immense loss to these States. The newer States, profiting by this experience, have been more judicious.

Federal
aid.

In 1862 Congress granted to each State of the Union, and to each new State to be admitted later, as many times 30,000 acres of land as it had Senators and Representatives in Congress. The income of the funds arising from the sale of this land was to support colleges of agriculture and mechanic arts.* In 1887 each State was given \$15,000 annually for the support of agricultural experiment stations. By a law of 1890 this amount was to be increased by \$1,000 each year until the appropriation reached \$25,000 for each State. This law provided that this money "shall be applied only to instruction in agriculture, the mechanic arts, the English language, and the various branches of mathematical, physical, natural, and economic science, with special reference to their applications in the industries of life and to the facilities for such instruction." Technical schools are in this way aided in many States.

Agricultural
colleges.

In connection with the systems of higher education we find professional schools of various kinds. These include colleges of law, medicine, dentistry, pharmacy, veterinary medicine, and normal schools. Commercial and business courses are a feature in a large number of colleges, universities, and high schools.

Professional
schools.

* American History, p. 389.

SUPPLEMENTARY QUESTIONS AND REFERENCES

1. Study the organization of the school system in your State.
(a) What is the unit of school taxation? Of administration? Should these be larger or smaller?

(b) What officers conduct school affairs? Can you suggest improvements in the system?

(c) How is school supervision secured? Is it effective? In what ways does the State control the common-school system?

(d) What are the laws of the State upon the subject of compulsory education? text-books?

(e) Study the revenues and expenditures of your school system. Comparison with other States in different sections of the country is possible from the reports of the Commissioner of Education.

(f) Ascertain the amount of Federal aid received by your State for education.

2. Students may get ideas for the graphic representation of educational statistics from the Report of the Commissioner of Education, 1897-98, pp. lxxxvii-xcvii.

3. History of land grants for schools. Boone, Education in the United States, 88-93; Hart, Essays on American Government, 244-247.

4. Education in colonial times. American History, 94, 97, 98, 133; Commissioner of Education, 1896-97, II, 1165; McMaster, History of the United States, I, 24-27; Earle, Child Life in Colonial Days; Lodge, Short History of the English Colonies in America, 74-76, 464-467; Fiske, Old Virginia, II, 245-253; Boone, Education in the United States, 9-19.

5. Use of lotteries in support of schools. Boone, 87-88.

6. Recent educational progress. American History, 522-523; Eliot, Good Urban School Organization, Indept., 56 : 416-422.

CHAPTER X

THE EXERCISE OF THE POLICE POWER

WE are accustomed to associate with the word "police" the idea of a body of officers to whom the enforcement of law is entrusted. But the legal significance of the word is much broader. In this sense we speak of the police power of a State as its system of internal regulation "by which persons and property are subjected to all kinds of restraints and burdens in order to secure the general comfort, health, and prosperity of the State," *i. e.*, of the citizens. It is assumed that all property of the State is held subject to those general regulations which are necessary for the common welfare. So, too, in the conduct of private business and in the family and social relations of life, citizens are not entirely free to determine their own conduct; but through its police regulations the State insures "to each the uninterrupted enjoyment of his own rights so far as is reasonably consistent with a like enjoyment of rights by others." *

Meaning
of the
term
police
power.

We are most familiar with the police regulations that are calculated to preserve public order and prevent offences against persons and property. A number of other instances in which the police power is used will now be noticed.

(1) Individuals are subjected to governmental control for the preservation of public health. Until recent years, health and sanitary laws were matters of local government only; but at present State boards of health are almost universal. The establishment of these boards has

Health and
sanitation.

* Cooley, Constitutional Limitations, 704, 706.

made the regulations upon this subject more uniform; at the same time the administration of laws has become more thorough. For popular ignorance and prejudice often prevent the execution of adequate sanitary measures. This is especially true when contagious diseases prevail. Stringent regulations then become necessary for disinfection, isolation, and quarantine. Local boards of health exist in the cities, but they are not so common in rural districts. These boards are made subject to control by State boards.

Governmental activity in care of public health.

In the interest of public health, private property may be declared a nuisance and removed or destroyed at private expense. Many cities have officers who inspect plumbing and appliances for sewage disposal. The chemical examination of water supplies reveals an important source of disease. A number of cities have forbidden expectoration in street-cars and public places. The establishment of hospitals and sanitariums for tuberculous patients has been begun in some localities. Health regulations also extend to the examination of horses and cattle and their condemnation when diseased.

Recently much attention has been given to the inspection of foods and of the places where food products are made.* Milk and dairy inspection is common. The analysis of canned and packed foods is necessary because an increasing proportion of our foods are prepared in factories, instead of in the home.

Protection from danger.

(2) The public is protected from danger in other ways than by these health regulations; for instance, by laws requiring that buildings containing halls for public assemblages shall have doors that swing outward, and by laws compelling the erection of fire-escapes on tall buildings. In cities, wooden structures may not be built

* The National government has taken up this subject in its pure food laws. See p. 178.

within the "fire limits" that are prescribed by ordinances. Private property may be destroyed to prevent the spread of fire.

The law regulates certain kinds of business on the ground that carelessness might render them injurious to individuals or to the public. For this reason the sale of explosives, fire-arms, and poisonous drugs is accompanied by legal restraints. So in the use of a public wharf or a market-place, the interests of the few must be subordinated to the welfare of the greater number.

(3) The conduct of individuals upon public highways is subject to legal control; the law may fix the rate of speed and require vehicles to turn to the right. Travel by water is likewise regulated. The States declare certain rivers and lakes within their limits to be navigable waters; these become highways, open to the public.* Consequently, such matters as the conduct of vessels, the building of dams, bridges, and docks, are regulated under the police power of the States.

Travel and
commerce.

(4) Persons and corporations are subject to police regulation because of the nature of the service they render, as in the case of the "common carriers." A common carrier is "one who holds himself as a carrier, inviting employment by the public generally. The most familiar classes of common carriers are railroad companies, stage coach proprietors, expressmen, truckmen, ship-owners, steam-boat lines, lightermen, and ferrymen." Any person falling within this definition "is bound to serve without favoritism all who desire to employ him, and is liable for the safety of goods entrusted to him, except by losses from the act of God or from public enemies, or unless special exemption has been agreed upon; and in respect to the safety of passengers carried he is liable to injuries

Common
carriers.

* But if they are used in interstate or foreign traffic, they are subject to control by the National government. See p. 176.

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which he might have prevented by special care" (Century Dictionary).

The control by States of public utilities.

The most important common carriers are the railroads, and recently there has been a tendency to regulate them more stringently through State commissions. In some States these bodies have the power to fix the maximum rates that may be charged for freight and passenger traffic. Other public utility industries, such as those furnishing water, lights, and street-car services in cities are made subject to control by State authorities in some cases. The same may be said of telephone and telegraph companies. Legal restraints are imposed upon these businesses, not only because they are in the nature of public industries, but also because they tend to become monopolies, and hence may abuse their power.

The conservation of natural resources.

(5) Within recent years it has become apparent that our great industrial growth has resulted in the rapid exhaustion of our natural resources—soil, forests, mines, and water-power; and that the supply of the products from some of these has passed into private hands. Hence has arisen the demand for the *conservation*, and for State control, of the remaining resources that are still public property. This involves such projects as the making of forest reserves; the construction of reservoirs for irrigation purposes and for regulating the flow of rivers; the taxation of mineral products; the policy of leasing water-power sites, instead of granting them outright. Such measures, adopted by many of the States, show an interesting extension of State functions.* It was to discuss the general subject of conservation that a conference of governors met at Washington in 1908. (See American History, 523.)

Restricted employments.

(6) Certain employments and practices are forbidden or placed under restrictions because they are in them-

* The National government has entered upon a similar policy. See p. 285.

selves immoral. The pursuit of gambling in its various forms falls under this head. The State interferes to prevent the infliction of cruelty upon animals because acts of this nature are immoral; and also because the moral sense of people is shocked by the sight or knowledge of their occurrence. Partly on the ground of the immorality of intemperance, and partly because of the dangers with which the public is threatened through this vice, the manufacture and sale of intoxicating liquors is the subject of State control.

In the regulation of employments, for whatever reason, it is customary for the State to require licenses. This is for the purpose of preventing persons from entering these employments indiscriminately. Accompanying the license is a fee, the amount of which may be (1) simply sufficient to cover the expense of inspection and regulation; or (2) it may be large enough to discourage or even to render impracticable the pursuit of the licensed business.* In its legal aspect, then, a business which is licensed is presumed to be legitimate, but to require regulation in order that the public may not suffer from abuses that may arise in connection with it.

Licensed
employ-
ments.

The laws regulating the manufacture and sale of intoxicating liquors are very numerous. Some of the most common of these prohibit the sale to minors, to intoxicated persons, and to habitual drunkards; also, the sale of liquors is forbidden on Sunday, on legal holidays, election days, and during certain hours of the night. The following restrictions are found in different States. There shall not be more than one saloon to a certain number of inhabitants. There shall be no saloon within certain dis-

Liquor
laws.

* The term "license fee" is often attached to taxes; *e. g.*, the license fees paid under United States law on the manufacture and sale of liquors. The idea here is simply the gaining of revenue. Many States require license fees with the sole purpose of raising revenue. See p. 59.

tances of public schools, colleges, churches, or parks. Screens and all obstacles to a clear view of the place where liquor is sold are prohibited. In some States liquor must be sold only with eatables or in connection with lodging-houses and hotels. In other States liquor must be never sold under these conditions. The consent of the owners of property in the same block or near the saloon is sometimes required. Liquor dealers are made responsible for damage caused by an intoxicated person who is known to be dangerous when under the influence of liquor.

Prohibitory
laws.

The governmental regulation of this business has extended in a number of States to the absolute prohibition of all manufacture and sale of intoxicating liquors. Prohibitory laws "are looked upon as police regulations established by the legislature for the prevention of intemperance, pauperism, and crime, and for the abatement of nuisances."*

Under the system of "local option" that exists in most States, each local government (town, village, and city) may settle the question of liquor selling for itself. Sometimes "resident districts" in cities are given the privilege of excluding saloons. Recently "county option" has become an issue in many States. Where adopted, this gives the voters opportunity to refuse licenses in an entire county; but if the majority favor licensing, the local units may still vote to be "dry." †

Enforce-
ment of
prohibition.

The difficulties in the enforcement of prohibitory laws may be grouped under several heads. (1) In certain localities, particularly in cities, we find the lack of public sentiment favorable to their enforcement. In these places officials have sometimes engaged systematically in the practice of fining or taxing saloon-keepers without attempting to enforce the prohibitory laws. (2) There is

* Cooley, *Constitutional Limitations*, p. 718.

† It is estimated that in 1909 two-fifths of the territory and almost one-half of the people of the United States were under prohibition laws.

THE EXERCISE OF THE POLICE POWER 91

great difficulty in preventing the importation of liquors into prohibition States. (3) Since the use of alcoholic liquors for medicinal and mechanical purposes is exempted from the prohibition, druggists are licensed to dispense them under prescription by a physician or some similar regulation. This leads to violation of the law, drug-stores sometimes becoming saloons in everything but name. (4) There are a multitude of devices for evading prohibitory laws, many of which involve official perjury and corruption.

High license means the exaction of large license fees for the purpose of discouraging the liquor business. The combination of local option and high license exists in some States. The fees are in some cases \$500 or more. Saloons in cities may be required to pay more than those in towns of the same State, \$1,000 being not an unusual amount for the former.

The granting of licenses is most frequently in the hands of the local governing board. Bonds, which are liable to be forfeited for non-compliance with the law, may be required of the licensee. Sometimes special commissioners are given charge of the entire matter of granting and revoking licenses. The exercise of these powers by officers opens another avenue through which corrupt influences enter politics. The control of the liquor business by licensing authorities and by the police should receive the constant attention of citizens. In no other way will the enforcement of law be secured.

(7) The insurance business and that of banking furnish other instances of State control exercised over private enterprises. Among the administrative officers of the State is the Insurance Commissioner. It is his duty to enforce the State laws that regulate the manner in which insurance companies shall conduct their business. The protection of the public against fraudulent and careless busi-

High
license.

State
control of
banking
and
insurance.

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ness methods is seen also in the State banking laws. Inspectors are sent to investigate the condition and methods of banks that operate under State laws.* In a few instances laws have been enacted under which banks are obliged to contribute small sums annually to a guarantee fund; this fund is drawn upon in case any bank fails, as a source from which its depositors are reimbursed. This is called "the guarantee of bank deposits."

SUPPLEMENTARY QUESTIONS AND REFERENCES

1. Make a list of the topics in this chapter upon which you know of some law in your State. Are these laws beneficial? Are they enforced?

2. Upon the recent industrial advance and changes in methods, see American History, 516-517, 520, 521, 523.

3. State control of water-power, Rev. of R's, 39 : 57-62; Soil erosion in the South, *ibid.*, 39 : 439-443; Water-powers of the South, *ibid.*, 41 : 68-76; New York's conservation of water resources, *ibid.*, 41 : 77-87; Forestry in the States, *ibid.*, 41 : 465-466.

4. The liquor problem and prohibition, Rev. of R's, 36 : 328-334; 749-750; 37 : 468-476; 480-481; Arena, 33 : 134-142. In the South, Atl. Mo., 101 : 627-634; Outlook, 86 : 943-944; 947-949.

5. Railway regulation by States. Indept., 68 : 905-910 (Wisconsin); Rev. of R's, 34 : 346-347 (Texas); World's Work, 13 : 8333-8337.

6. Bank deposit guarantee in Oklahoma, Rev. of R's, 39 : 499-500; *ibid.*, 37 : 340-347; Indept., 65 : 418-419.

7. Regulating the milk supply, Rev. of R's, 36 : 360-362; 585-593.

8. The conference of Governors, Outlook, 89 : 138-140; 145-148.

* National banks operate under United States law. See p. 187.

CHAPTER XI

LABOR LEGISLATION

THE laws that fall under this designation are very similar in their general purpose to those through which the State exercises its police power. It will be convenient to consider these laws as grouped into several classes.

(1) There are laws that relate to the age of workers and the hours of labor. Attention was early called to the necessity for labor legislation because of the employment of young children in factories and the long hours of service for women and children. State laws now quite generally prohibit the employment of these persons for more than ten hours a day, or sixty hours a week. The employment of children in factories and mercantile establishments is made illegal, though the age limit varies from ten to fourteen or sixteen years. Accompanying these laws are requirements that children be given a minimum number of months' schooling each year.

Labor of
women and
children.

There has been much agitation in favor of a legal eight-hour day for workmen. The employees of the National and of many State governments work under this rule. In private employment, freedom of contract is generally allowed for adult male laborers; but there are exceptional industries in which the law limits the number of hours, either for the benefit of the laborer, or for public safety. Mining and railway employment are examples of such industries.

(2) The second class of labor laws specify the conditions under which labor may be carried on. They regulate the manner in which factory buildings shall be

Safety and
comfort of
employees.

constructed and ventilated; the lighting and sanitation of these buildings must conform to certain requirements. Under certain conditions, seats must be provided for employees. The hours for meals must be reasonable. Sweat-shops are prohibited. Steam boilers are inspected and engineers are examined. Machinery must be so placed and guarded that employees will not be compelled to work in dangerous situations. Mines, in particular, are subject to State laws intended to secure the safety of miners.

Wages.

(3) The relations of employers and employees, and of both to the public, form a very important but complicated subject of legislation. There are laws regulating the time for the payment of wages, and prohibiting the truck system. Other laws forbid blacklisting and boycotting. The liabilities of employers for damages, because of accidents in which employees suffer, are fixed in many States by legislation. Trades unions and their members have received legal protection in various ways; for instance, laws prevent the discharge of employees for the sole reason that they are members of these organizations.

Trade
unions.

Strikes.

One of the most difficult subjects of legislation in this field is that relating to labor conflicts. Laws which undertake to control strikes and lock-outs are being supplemented by others calculated to prevent these labor wars. In about one-half the States, boards of arbitration and conciliation have been established. These boards are empowered to offer their services to aid in the settlement of disputes between employers and employed, and to investigate and report facts concerning strikes. But nowhere in this country has the compulsory arbitration of labor disputes been made legal. When a strike occurs in a business that is a public utility (*e. g.*, a street-car line), it would seem that the interests of the public should be guarded in such a way as to secure the continuance of the

Arbitration
of labor
disputes.

service by compulsory process, if necessary, until the dispute is settled.

When damage to property or to business interests has been threatened by strikes, courts have granted injunctions which forbid the strikers doing certain acts, such as damaging property or intimidating others who wish to work. When an injunction is violated, the judge who issued it may sentence the guilty person to punishment without a formal trial. By this means the acts of strikers were controlled. Much opposition has arisen to this method of dealing with these cases; it is called "government by injunction."

Injunctions.

The relations between workmen and their employers are determined primarily by the rules of "common law." This is that body of law "which originated in the common wisdom and experience of society, in time became an established custom, and has finally received judicial sanction and affirmance in the decision of the courts of last resort."* It is found in reported decisions of courts and in legal text-books of established authority. But the new conditions of modern industrial life have rendered necessary statute laws which modify and supplement the rules of the common law.

The common law.

(4) The enforcement of labor laws is a duty of State and local officers; but in nearly every State of the Union there have been created bureaus of labor having more or less complete powers over the administration of labor laws. In some cases the powers are merely those of collecting statistical information and of inspection in the ordinary sense of that term; in these ways much valuable information concerning conditions of labor is made public. But the power of enforcing labor laws is often vested in these bureaus, or in special officers called factory inspectors, who devote their time to this matter.

Labor bureaus.

(5) Looking toward the prevention of evils and conflicts in the industrial world, we find the establishment, by city and State governments, of industrial and technical schools and the incorporation of manual training courses

Industrial education.

* Robinson, *Elementary Law*, 2; Dole, *Talks about Law*, 8.

in the common schools. For with the increased intelligence and skill of workmen will come increased respect for their rights, and more reasonable settlement of their relations to capitalists.

Some laws have been passed, and others are under consideration, upon many important subjects relating to labor, besides those mentioned in this chapter. Such subjects are: old age pensions, employers' liabilities, industrial insurance or compensation for loss due to sickness or injuries, State employment bureaus, and the regulation of industries that are injurious to health of employees.

SUPPLEMENTARY QUESTIONS AND REFERENCES

1. Find in the statutes of your State provisions regulating the employment of labor. Has your State an efficient system of factory inspection?

2. When were the first factory acts of England passed? Gardiner, History of England, 911, 927.

3. What value have the statistics that are collected by labor bureaus?

4. What has been accomplished in your State toward the peaceful settlement of labor disputes?

5. The use of injunctions in connection with labor troubles. Indept., 65 : 348-351; 460-463.

6. Why are the economic functions of government increasing?

7. Labor legislation. Stimson, Labor in its Relations to Law. By the same author, Handbook to the Labor Laws of the United States.

8. What are *blacklisting*, *boycotting*, *picketing*, *sweat-shops*? See dictionaries and Encyclopedia of Social Reform.

PART II

THE NATIONAL GOVERNMENT

CHAPTER XII

STEPS LEADING TO UNION

A NOTABLE fact presents itself as we consider the relations of the colonies prior to the Revolutionary war. Colonial relations. There was a general indifference toward union, and it was only by slow and arduous steps that union was finally accomplished. This may be partially accounted for, if it be recalled that the early settlements were usually found scattered along the coast, each with its own harbors and interior waterways. Lack of roads, together with the primitive methods of travel then in use, rendered extended intercommunication wellnigh impossible. Besides, each colony had its own separate government, and different religious beliefs and practices tended to produce distrust and dislike among the colonists. There were, however, some strong bonds of sympathy. Their language and institutions were mainly English, and they were interested in the development of liberal government. Again, a community of interests was created in the necessity for protection against their Indian, French, and Dutch foes. In general, it may be said that confederation was early brought about through the need for defence, but union has been the fruit of long years of transformation and assimilation.

The New
England
confederation.

In 1643 the four colonies—Massachusetts Bay, New Plymouth, Connecticut, and New Haven—entered into a league (“for mutual help and strength in all our future concerns”) known by the name of the United Colonies of New England. This confederation was necessary, because the English government, then in the midst of the Puritan revolution, was unable to furnish the colonists protection against their Dutch, French, and Indian enemies. In the annual meetings of the commissioners, two being sent by each colony, questions pertaining to war, peace, and relations with the Indians were discussed. This central government possessed only advisory power over the colonies, and had no power whatever over the individual citizens. The confederation was finally dissolved in 1684.

Inter-
colonial
conferences
between
1690 and
1754.

During the intercolonial wars the colonists were in constant danger from attacks by the French and Indians. The meeting at New York in 1690 of commissioners from Massachusetts, Plymouth, Connecticut, and New York “to fix upon such methods as should be judged most suitable to provide for the general defence and security and for subduing the common enemy,” was the first of about a dozen such intercolonial conferences. Through these meetings, and especially by the co-operation of the forces of the various colonies in the army and the navy, social and religious prejudices were weakened and the sentiment for union was stimulated. In 1697 William Penn presented to the Board of Trade a plan for the union of the colonies which, though not adopted, is of interest, for it contained the first use of the word “Congress” in connection with American affairs. The plans presented for the fifty years following were largely fashioned after this model.

Penn's plan
of union,
1697.

The Lords of Trade, knowing that a general colonial war, caused by French aggression, was inevitable, directed

that a Congress, consisting of delegates from all the colonies, should assemble at Albany for the purpose of making a treaty with the Iroquois Indians and considering other means of defence. The suggestion was made in America that the commissioners should also draw up some plan for colonial union. This Congress, consisting of twenty-five of the leading men from seven different colonies, was an important advance toward union. A treaty with the Indians was secured. The Congress then adopted unanimously the resolution that "A union of all the colonies is at present absolutely necessary for security and defence." A plan of union, drawn up by Benjamin Franklin and known as the Albany plan, was also adopted. This plan provided for a Governor-General to be appointed by the Crown and a grand council to be composed of delegates elected by the colonial assemblies. The assemblies rejected the plan, for they objected to the presence of a royal officer. The English government did not approve the plan, for it was thought too democratic.

The Albany Congress, 1754.

Stirred by the various acts of the English government and especially by the passage of the Stamp Act, the Massachusetts House of Representatives issued an invitation, to the other colonial assemblies, to send delegates to a general meeting. Nine colonies responded by sending twenty-eight men to the Congress which assembled in New York, October 7, 1765.* They were in session two weeks and during this time petitions to the English government and a declaration of rights were formulated. This declaration is of importance in that it sets forth for the first time the united views of the colonists relative to questions which were to form the basis for revolution. The Congress declared the rights of the colonists to be the same as those of *natural born* subjects of England. It is

The Stamp Act Congress, 1765.

* Virginia, New Hampshire, Georgia, and North Carolina sympathized with the movement but did not send delegates.

notable that here again representatives had assembled on the motion of the colonists themselves. An advanced position was taken by Christopher Gadsden of South Carolina, who asserted: "There ought to be no New England man, no New Yorker, known on the continent; but all of us Americans." During the following year the Stamp Act was repealed.

The First
Continental
Congress, 1774

The policy of coercion was still continued by the English government, and finally the repressive acts of 1774 were passed. Again Massachusetts, June 17, 1774, under the leadership of Samuel Adams, called for a congress of all the colonies and hastened the meeting through its committee of correspondence. Delegates from all of the colonies, with the exception of Georgia, assembled at Philadelphia, September 5, 1774. In this Congress, without legal status, its representatives having been chosen ordinarily by irregular congresses and conventions, there were again some of the most influential men in America. Resolutions were passed approving the action of Massachusetts in her resistance to the measures of Parliament, and a Declaration of Rights was prepared. In this Declaration was asserted the right of exclusive legislation in the colonial legislatures, limited only by the negative of "their sovereign in all cases of taxation and internal polity." An "association" was adopted, binding the colonists not to import or consume British goods after December, 1774, and not to export goods to England or her colonies after September, 1775. Congress advised the appointment of committees in every locality who should recommend that the colonists should have no dealings with persons who would not observe this policy. Such committees were quite generally organized.

The Second
Continental
Congress, 1775.

The resolutions of the First Continental Congress had little influence on the English government, and other measures were quickly passed carrying out the policy of

repression. Before the Second Continental Congress assembled, the battle of Lexington had been fought and the American forces were then holding Boston in a state of blockade. This Congress convened in Philadelphia, May 10, 1775, and continued in session, with adjournments from time to time, until March 1, 1781.

All of the colonies were represented, and nearly all of the delegates had been members of the First Continental Congress. The members sat behind closed doors and were enjoined to keep all matters of discussion absolutely secret. It was determined that each State should have one vote and that final authority on all questions should rest with a majority of the States assembled in the Congress.

Organiza-
tion of the
Congress.

Like previous Congresses, this one was, at first, merely an advisory body. It was expected that all matters would be reported back to the States for instructions, but the crisis had come and the situation compelled Congress to exercise sovereign powers.

Authority
of the
Congress.

Congress at once took control of military affairs and called Washington to the command of the army which it created. It provided for a national currency; organized a general post-office; and threw open American ports to the ships of all nations. It furthered union and independence by the appointment of a committee to formulate the ideas on independence then prevalent; and of another committee to prepare the form of confederation to be entered into. Between May 10, 1775, and July 4, 1776, the change in sentiment was rapid. King George III. refused to return a formal answer to their last petition and proclaimed the colonists "dangerous and ill-designing men." Heretofore, the colonists had striven for a union of thought and action, which they believed to be the best means to secure those rights which were everywhere the heritage of Englishmen. When the result of

Powers
exercised
by
Congress.

The Declaration of Independence.

the last petition became known, October 31, 1775, there was no longer any hesitancy with regard to the course to be pursued. Henceforth, they were to gather additional inspiration as they strove to secure rights regarded as common to all mankind. These new views were embodied in the Declaration of Independence.

The colonies made States.

Even before the adoption of the Declaration of Independence, Congress recommended, having been appealed to for advice by New Hampshire, South Carolina, and Virginia, that new forms of government should be established. By the year 1777 ten States had framed new constitutions.

The Articles of Confederation.

The problem of the relations between the general government and the States was second in importance only to the problem of the winning of independence from England. The State legislatures were held in greater respect than was the Continental Congress. It became clear, then, to some of the leaders, that if union were to be preserved, it would be necessary to have a government more effective than a revolutionary assembly. As early as July 21, 1775, Franklin had seen this need and had presented to Congress a plan for "Perpetual Union." Action was postponed by Congress, and Richard Henry Lee, the following year, offered in connection with his resolution for independence another resolution for the drafting of the Articles of Confederation. On June 12, 1776, the day on which the committee was appointed to draw up a Declaration of Independence, Congress also named a committee, consisting of one member from each colony, to prepare a form of confederation to be entered into between the colonies. The report of this committee was submitted one month later by its chairman, John Dickinson. A year and four months, a most momentous period in the history of our country, was to elapse before the Articles, as amended, were adopted by Congress and

submitted to the State legislatures for approval.* Three years and a half more elapsed before Maryland, the last State, ratified, March 1, 1781.

The adoption of the Articles of Confederation marks one of the most important events in the history of the United States. While it must always be regarded as a weak instrument of government, we must not forget that the Continental Congress worked along entirely new lines, for never before had a confederation so extended as this been even proposed. That there should be a general desire for union, no matter how weak the tie, was of great significance. The Articles provided for a Congress to be composed of not less than two nor more than seven delegates from each State. Delegates were to be appointed as the State legislatures should direct. To each State was given one vote in Congress.

Nature of
the govern-
ment es-
tablished.

The weaknesses in the government were mainly these: Congress might make the laws but could not enforce them. The general government had no power of taxation, but was obliged to depend upon the State legislatures for necessary revenues. There was no separate executive to enforce and no judiciary to interpret the laws. No important resolution could be passed in Congress without the votes of nine States, and the Articles could not be amended except by the ratification of all the States. Congress acted on the States and not on individuals, but it had no power to coerce the States. "Its function was to advise, not to command."

Defects in
the govern-
ment.

The fatal lack of organization in the government early produced momentous results. While the war continued, union for self-preservation was necessary; but when peace ensued, the principle of local self-government in the States became more manifest. Washington saw the trend of

Practical
workings of
the govern-
ment.

* From July 11, 1776, to November 17, 1777. See American History, pp. 184-186.

affairs, and in a circular letter to the governors of the several States, shortly before his resignation as commander of the army, expressed his views in the following words: "Unless the States will suffer Congress to exercise those prerogatives they are undoubtedly invested with by the Constitution, everything must very rapidly tend to anarchy and confusion. . . ." Had this appeal been appreciated by the States, the condition of anarchy which followed would not have occurred. But the jealousy of the States for the central government continued to increase; the State interests became dominant, and that most dangerous period of our history, extending from 1783 to 1788, well called the "critical period," succeeded. It was apparent that the government under the Articles of Confederation was a failure and that the Nation was drifting rapidly toward anarchy and open rebellion. Fortunately in this darkest hour there came forward Washington, Franklin, Hamilton, Madison, and other leaders who were prepared, if need be, to make compromises, but who were determined to preserve the elements of union already secured.

SUPPLEMENTARY QUESTIONS AND REFERENCES

1. For a discussion of the topics in this chapter see American History, chapter 12.

2. Who were the Lords of Trade, and what was their attitude toward the colonies? Why was the spirit manifested by the colonial governors a cause for co-operation between the colonies? Why was Federal union hopeless? Fiske, American Revolution, I, 1-6.

3. Why were not the colonies of Rhode Island and Maine included in the New England Confederacy? Fiske, Beginnings of New England, 155-158.

4. Read the Articles of Confederation of the United Colonies of New England. American History Leaflets, No. 7. 1. Reasons for "consociation." 2. In what way were the apportion-

ments of men and expenses to be made? 3. The numbers, qualifications, and authority of the commissioners? 4. The significance of the provision relative to fugitives? 5. Reasons for the dissolution of the league? Fiske, *Beginnings of New England*, 159.

5. For a summary of the intercolonial conferences see Frothingham, *Rise of the Republic*, 118-120; *American History Leaflets*, No. 14.

6. After reading the Albany Plan, give reasons for the statements made by Franklin. *Old South Leaflets*, No. 9. How were the members to be apportioned among the colonies? Give a list of the powers of the central government under this plan. Did it possess full power to make laws?

7. Why were not all of the colonies represented? Fiske, *The American Revolution*, I, 21.

8. What was the origin of the Committees of Correspondence and how did they aid in unification? Sloane, *The French War and the Revolution*, 161, 162; Hart, *Formation of the Union*, 57.

9. How were the delegates to the Second Continental Congress appointed? What was the character of this Congress? Hart, *Formation of the Union*, 73, 74; Fiske, *The Critical Period of American History*, 92, 93.

10. Why was the adoption of the Articles of Confederation so long delayed? Hart, *American History Told by Contemporaries*, II, 539-543; Fiske, *The Critical Period of American History*, 93, 94; Walker, *The Making of the Nation*, 6; Hart, *Formation of the Union*, 93-95.

11. Read the Articles of Confederation, Appendix B. 1. How was the Congress composed? 2. The number necessary for a quorum? 3. The powers of Congress? 4. Powers of the separate States?

12. What was the attitude toward union during the period 1783-1788?

13. Were there notable bonds of union even at this time? What other influences have increased this sentiment? Fiske, *The Critical Period of American History*, 55-63; Walker, *The Making of the Nation*, 7, 8.

CHAPTER XIII

THE CONSTITUTIONAL CONVENTION

Events
leading to
the Consti-
tutional
Conven-
tion.

AMONG the many difficulties referred to in the previous chapter, there were constant disputes between Virginia and Maryland relative to the navigation of the Potomac River and of Chesapeake Bay. Finally, in March, 1785, three commissioners from these States, on the recommendation of Mr. Madison, met at Alexandria, Va., for the purpose of considering the difficulties. They soon adjourned to Mount Vernon. While there, Washington proposed that they include in their report the recommendation that there should also be a uniform system of duties and a uniform currency. It was seen, however, that if anything permanent in these matters was to be accomplished, all of the States must join in an agreement. In January of the following year, Virginia invited the other States to send delegates to a convention at Annapolis to consider the condition of commerce and duties on imports.

The meet-
ing at
Annapolis
and its
results.

There were present at Annapolis, September 11, 1786, commissioners from Virginia, Delaware, Pennsylvania, New Jersey, and New York. Commissioners from some of the other States were on their way, but Maryland, Georgia, South Carolina, and Connecticut had appointed none. Nothing permanent could be accomplished with so few States represented; but before adjourning they agreed to a resolution framed by Alexander Hamilton which proposed a convention to be composed of commissioners from all the States to meet at Philadelphia on the second Monday in May, 1787, for the purpose of amending the Articles of Confederation. Copies of this resolution

were sent to all of the States and also to Congress. Not until delegates had been appointed by six States did Congress practically approve of the plan by recommending to the States a convention identical with the one already provided for by the Annapolis resolution. The remaining States, Rhode Island excepted, soon appointed delegates.

The day fixed for the Convention was May 14, 1787, but not until May 25 was there a quorum of delegates from seven States present at Philadelphia. The number of delegates to be sent by each State had not been specified; and in order that the States should have equal powers, one of the first standing rules adopted provided that the voting should be by States. Seventy-three delegates were appointed as members in this, one of the most memorable assemblies the world has ever known, but only fifty-five attended. Twenty-nine of the number were university men. With but few exceptions, the men who had been particularly prominent in the days of the Revolution were present. Among them were Washington, who was unanimously chosen President of the Convention, and Franklin, whose fame as diplomat and legislator was world-wide. Neither of these men took an active part in the debates, but their presence gave inspiration to the others and they had untold influence at critical times.

The
Federal
Convention,
1787.

On May 22, while some of the delegates, in their fears of displeasing the people, were recommending half-way measures, Washington gave expression to that sentiment which was to dominate in the future debates of the Convention. He said: "It is too probable no plan we propose will be adopted. Perhaps another dreadful conflict is to be sustained. If to please the people, we offer what we ourselves disapprove, how can we afterwards defend our work? Let us raise a standard to which the wise and the honest can repair; the event is in the hand of God."

Delegates
in attend-
ance.

Other signers of the Declaration of Independence present besides Franklin were Roger Sherman, of Connecticut; George Read, of Delaware; Elbridge Gerry, of Massachusetts; Robert Morris, of Pennsylvania; and Chancellor Wythe, of Virginia. Virginia also sent George Mason, Edmund Randolph, and James Madison; Massachusetts, Caleb Strong, Nathaniel Gorham, and Rufus King. Delaware sent John Dickinson. Pennsylvania was represented by James Wilson, the great jurist, and Gouverneur Morris, "whose correctness of language" led him to be selected to prepare the final draft of the constitution; and Connecticut by Oliver Ellsworth, one of the greatest lawyers of the day, who afterward became Chief-Justice, and William S. Johnson, who became President of Columbia College. Among the other more notable members were Alexander Hamilton, of New York; Governor William Paterson, of New Jersey; Luther Martin, of Maryland; and the two Pinckneys and John Rutledge, from South Carolina.

John Adams and Thomas Jefferson were then in Europe, and Samuel Adams, Patrick Henry, and Richard Henry Lee disapproved of the Convention.

Notable
men not
present.

Our knowl-
edge of the
Convention.

The Convention lasted from May 25 to September 17, 1787. The members sat behind closed doors, and the charge of secrecy with regard to the proceedings was placed on them. The official journal was entrusted to Washington, who deposited it in the public archives in 1796. It was published in 1819 as a part of volume one of Elliot's Debates. We can gather little from the journal with regard to what was actually said by the members, but fortunately Mr. Madison, with an appreciation of the consequences of the Convention, decided to give as nearly as possible an exact report of the proceedings. He wrote: "Nor was I unaware of the value of such a contribution to the fund of materials for the history of a Constitution on which would be staked the happiness of a people great even in its infancy, and possibly the cause of liberty throughout the world." These notes were purchased by the government from Mrs. Madison in 1837 for \$30,000, and published for the first time in 1839.

Madison's
"Journal,"
50.

The magnitude of the labor of the Constitutional Convention can be understood only as we read in Madison's notes the report of the discussions. The actual work of the Convention was begun on May 30, when it went into committee of the whole for the purpose of considering a series of fifteen resolutions which had been presented the day before by Governor Edmund Randolph, of Virginia. The plan of government set forth in them, known as the Virginia Plan, was largely the work of Mr. Madison. It was considered until June 13, and after certain amendments had been adopted was reported back favorably to the Convention. Among the most important provisions finally submitted were the following: (1) That a National government should be formed possessing supreme legislative, executive, and judicial powers; (2) that the legislative power should be vested in a Congress of two separate houses—a House of Delegates to be chosen by the people of the States, and a Senate to be elected by the House of Delegates; that the representation in both houses should be based on population or on contributions to the support of the government; and that the executive should be chosen by both houses of Congress, and the judiciary by the Senate. This scheme had been fiercely attacked in the committee by the delegates from the smaller States, who desired to maintain equality of State representation. It was clear that if the plan proposed were adopted the government would pass into the hands of the large States.

Plans and compromises.

The Virginia Plan.

Frustrated in their desires, the small States agreed upon a series of eleven resolutions, known as the New Jersey Plan, which were presented by Mr. Paterson of that State on June 15. They provided for a continuance of the government under the Articles of Confederation, which were to be revised in such a manner as to give to Congress the power to regulate commerce, to raise revenue,

The New Jersey Plan.

and to coerce the States. This plan had been agreed upon among the members from Connecticut, New York, New Jersey, Delaware, and Luther Martin, of Maryland. The New Hampshire delegates had not yet arrived. Connecticut and New York were against a departure from the principle of confederation, wishing rather to add a few new powers to Congress than to substitute a National government.

The
Pinckney
resolutions.

On the same day that Governor Randolph presented the Virginia Plan, Charles Pinckney, of South Carolina, presented a series of resolutions founded on similar principles. It never received a separate consideration but had considerable influence on parts of the Constitution.

Hamilton's
views

On June 18, in the midst of the crisis as to whether a national or a federal government should be established, Hamilton made his celebrated speech in opposition to both plans. He wanted a highly centralized government. "Governors," "senators," and "judges" were, according to his view, to hold office during good behavior.

The Vir-
ginia *vs.*
the New
Jersey Plan

For three days the contest waxed hot over the merits and defects of these plans. It was asserted by those who opposed the Virginia Plan that it would destroy the sovereignty of the States. They believed also that they did not possess the power to create such a government. Said Paterson: "I came here not to speak my own sentiments but the sentiments of those who sent me. Our object is not such a government as may be best in itself, but such a one as our constituents have authorized us to prepare and as they will approve." To this sentiment Randolph replied: "When the salvation of the Republic is at stake, it would be treason not to propose what we find necessary." Finally the arguments of Madison, Wilson, and King triumphed and the Virginia Plan was again presented to the Convention. The debates became even more heated than before, as resolution after resolu-

tion was taken up. The critical time came when the clause which provided for proportional representation was reached. Luther Martin contended with great vehemence, "That the States, being equal, cannot treat or confederate so as to give up an equality of votes without giving up their liberty; that the propositions on the table are a system of slavery for ten States; that as Virginia, Massachusetts, and Pennsylvania have forty-two ninetieths of the votes, they can do as they please, without a miraculous union of the other ten." Others claimed they would rather submit to a foreign power than be deprived of equality of suffrage in both branches of the legislature. The Convention was on the verge of dissolution when Johnson, of Connecticut, brought forward a compromise based on the different methods by which members of the two houses were chosen in that State. This provided that the House of Representatives should be composed of members elected on the basis of population, while, in the Senate, large and small States were to be equally represented. Finally, after eleven more days of discussion, this, the first great compromise, was adopted.

The Connecticut compromise.

The adoption of the compromise was virtually a victory for the Virginia Plan. When the smaller States were given an equal vote in the Senate, they no longer feared that they would be absorbed, so they united with the larger States in giving yet greater powers to the general government.

How was the number of Representatives to be determined was another serious problem. It was agreed that all free persons should be counted. There was little objection offered to counting those persons bound to service for a term of years and to the excluding of Indians not taxed. The chief debate arose over the question whether the slaves should be included in the enumeration. The South Carolina delegates maintained that

The second or three-fifths compromise.

slaves were a part of the population, and as such should be counted. Objections were made that slaves were not represented in the legislatures of that and other States, and, in consequence, ought not to be represented in the National legislature; also, that they were regarded in those States merely as property, and as such should not be represented. There was grave danger that the work of the Convention would fail at this point. Finally, a proposition was introduced to the effect that slaves were to be represented as "other persons," three-fifths of whom were to be counted. Another clause was inserted for the purpose of reconciling the non-slaveholding States to this provision: that "direct taxes should be apportioned in the same manner as Representatives."

The third
compro-
mise.

The third great compromise grew out of the question of the foreign slave trade. South Carolina and Georgia were anxious that this should be continued. This was opposed by the Northern States and by some of the Southern. On the other hand, New England members, especially, because of their interest in commerce, feared the results which would ensue if each State was allowed to be independent in commercial matters. They wanted the general government to have complete control of commerce. But this was resisted by some of the Southern delegates, who thought that, by some act of legislation, the trade in slaves might be prohibited. Finally a compromise was agreed upon which gave Congress power over commerce but forbade any act which might prohibit the importation of slaves prior to 1808. It was also agreed that a tax of ten dollars each might be laid on all slaves imported.

Influence
of the com-
promises.

While the Constitution may be said to be made up of a series of compromises, these three settled, for the time, the questions which were most vital, and rendered the further work of the Convention possible. It has been sometimes asserted that there should have been no half-way meas-

ures on slavery; that had the question of slavery been settled at that time there need not have been a Civil War. But, as already noted, without compromises the work of the Convention must have failed, and political anarchy would have been inevitable, the results of which would have been even more disastrous than the effects of that terrible period of warfare between 1861 and 1865.

The Constitution divided power among three practically independent departments of government, *viz.*, the Legislative, the Executive, and the Judicial. In place of the single house of the confederation there was to be formed a legislative body consisting of two houses. Experience had proved that a strong executive power was necessary to enforce the laws. It was finally agreed to entrust this power to a single person, the President.

Some of
the leading
features of
the new gov-
ernment.

Hamilton characterized the lack of a judiciary, under the confederation, as the crowning defect of that government. The conviction that the Federal judiciary should constitute one of the three parts of the government was general in the Convention, and after a brief discussion provision was made for it. The Federal government, according to the Constitution, was no longer, as under the Articles of Confederation, to be the agent of or to be dependent upon the States. Its laws were to be *imperative*, not *advisory* merely, and were to operate upon *persons* and not *States*. Certain significant powers were bestowed upon the National government, such as the right to tax; to regulate commerce; to make war and peace; to support an army and navy; and to coin money. The peculiarity of the new government lies in the division of powers between State and National authorities. The National government was to exercise certain powers enumerated in the Constitution. All other powers not prohibited by the Constitution to the States were to be reserved to the States or to the people.

Authority
of the
govern-
ment es-
tablished.

Signers of
the Consti-
tution.

The final draft of the Constitution, prepared by Gouverneur Morris, was then submitted to the delegates for their signatures. Thirty-nine members, representing twelve States, affixed their names to the document, and on September 17 the Convention adjourned.* While the last signatures were being written, Franklin said to those standing near him as he called attention to a sun blazoned on the back of the President's chair: "I have, often and often, in the course of the session, and the vicissitudes of my hopes and fears as to its issue, looked at that behind the President, without being able to tell whether it was rising or setting; but now, at length, I have the happiness to know that it is a rising and not a setting sun."

Madison's
"Journal,"
763.

Ratifica-
tion of the
Constitu-
tion.

The Constitution was first submitted to Congress September 20, and the following day it became known to the people through the New York daily papers. For eight days the document was attacked by its opponents in Congress, but finally it was transmitted to the State legislatures to be sent by them to State conventions chosen by the people. This process of ratification was provided for by Article VII of the Constitution, as follows:

Article VII. *The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.*

The period included between September 28, 1787, when Congress unanimously resolved to transmit the Constitution to the State legislatures, and June 21, 1788, the date when it had been ratified by the necessary nine States,† was one of the most critical in our history. Everywhere the Constitution was violently attacked. Political parties in a truly national sense were formed for the

* See Appendix A.

† The State legislatures submitted the Constitution to State Conventions.

first time. Those who supported the Constitution called themselves Federalists, and those opposed Anti-Federalists.

In general, the opponents of the Constitution desired more extensive powers for the States, and were to be found largely among the rural population and debtor classes. Its advocates, the Federalists, were the men of wealth and the inhabitants of the manufacturing and commercial centres. Among the leaders who ably defended the views of the opposition, the Anti-Federalists, were Richard Henry Lee, Elbridge Gerry, George Clinton, and Patrick Henry. - It was urged that the President would become a despot, the House of Representatives a corporate tyrant, and the Senate an oligarchy; that equality of representation in the Senate was an injustice to the large States; and that there was no Bill of Rights. The views of the Federalists are well presented in a letter written by Washington, on his return from the Convention, to Patrick Henry, in which he says: "I wish the Constitution which is offered had been more perfect; but it is the best that could be obtained at this time, and a door is open for amendments hereafter. The political concerns of this country are suspended by a thread. The Convention has been looked up to by the reflecting part of the community with a solicitude which is hardly to be conceived, and if nothing had been agreed on by that body, anarchy would soon have ensued, the seeds being deeply sown in every soil."

Arguments for and against the Constitution.

Political letters, tracts, and pamphlets flooded the country. The most noted articles in opposition were the "Letters from the Federal Farmer," prepared for the press of the country by Richard Henry Lee. No influence was more noteworthy in bringing about ratification than the series of political essays afterward collected under the title of "The Federalist." They present the cause with such logic that to-day they are considered the best com-

The Federalist.

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mentary on the Constitution ever written. Alexander Hamilton inaugurated the plan and wrote 51 of the 85 numbers. James Madison wrote 29 and John Jay 5.

The Constitution in the State conventions.

December 6, 1787, the ratification of the Constitution was secured in Delaware, the first State, without a dissenting vote, and Pennsylvania, New Jersey, Georgia, and Connecticut quickly followed. Much depended on the action of the Massachusetts convention. After prolonged debate the delegates were induced to accept the proposition that amendments might be made which would take the place of a Bill of Rights, and adopted the Constitution by a vote of 187 to 168. The ratification of Maryland and South Carolina soon followed, and the ninth State was secured by the ratification of New Hampshire, June 21, 1788. Virginia ratified, June 25, with a vote of 89 in favor and 79 opposed, and New York, July 26, with 30 affirmative votes and 27 negative. It was not until November 21, 1789, that North Carolina voted to accept the Constitution, while Rhode Island held out until May 29, 1790.

The new government put into operation.

When the ratification of the ninth State had been secured, Congress appointed a special committee to frame an act for putting the Constitution into operation. It was enacted that the first Wednesday in January should be the day for appointing electors; that the electors should cast their votes for President on the first Wednesday in February, and that on the first Wednesday of March the new government should go into operation. It was not until April 1 that a quorum was secured in the House of Representatives, and in the Senate not until April 6. The electoral votes * were counted in the presence of the two houses on April 6. The inauguration of President Washington did not take place, however, until April 30.

* New York did not choose electors, and North Carolina and Rhode Island had not ratified the Constitution.

Having considered some of the problems of the Convention and those connected with the adoption of the Constitution, we next inquire as to the origin of this epoch-making document. The often-quoted words of Mr. Gladstone, which have no doubt been misinterpreted, have been used to strengthen the view that the Constitution was the creation of the Convention. He said: "As the British Constitution is the most subtle organism which has proceeded from progressive history, so the American Constitution is the most wonderful work ever struck off at a given time by the brain and purpose of man." An analysis of the Constitution shows that there are some provisions which are new and that English precedent has had an influence, but that the main features were derived from the constitutions of the States. Many of the delegates of the Constitutional Convention had helped to frame these State constitutions, and all were familiar with their practical workings. Thus, the Convention was "led astray by no theories of what might be good, but clung closely to what experience had demonstrated to be good." * The following familiar statement is an excellent summary: "Nearly every provision of the Federal Constitution that has worked well is one borrowed from or suggested by some State constitution; nearly every provision that has worked badly is one which the Convention, for want of a precedent, was obliged to devise for itself."

Origin of
the Consti-
tution.

With the exceptions of the constitutions of Pennsylvania and of Georgia, all of the State constitutions, in 1787, provided for legislatures of two houses. The term "Senate" was used to designate the upper house in Maryland, Massachusetts, New York, North Carolina, New Hampshire, South Carolina, and Virginia; and "House of Representatives" was commonly used for the lower house. The constitution of Delaware provided for the election of one-third of the senators every two years, and the New York constitution made provision for taking a census

Influence of
the State
constitu-
tions.
New
Princeton
Review,
IV, 175.

* James Russell Lowell, address of April 13, 1888.

once in seven years for the purpose of apportioning the Representatives. As already noted, Connecticut furnished the example for equal representation of the States in the Senate and for proportional representation in the House of Representatives. In nearly all of the State constitutions, each House was given the power to decide the election of its members, make rules, publish a journal, and adjourn from day to day. "All bills for raising revenue must originate in the House" is found almost word for word in the Massachusetts and New Hampshire constitutions. The powers of President and Vice-President resemble closely those granted the governor and lieutenant-governor. Other important provisions were, no doubt, derived from the State constitutions, such as the process of impeachment, the veto power, the first ten amendments, and the President's message.

New features of the Constitution.

Professor Alexander Johnston, in the article the substance of which has just been given, states that while a judicial system existed as a part of the State governments, the "great achievement of the Convention was the erection of the judiciary into a position as a co-ordinate branch of the government." He says also that "the process of electing the President is almost the only feature not a natural growth."

Authority and purposes of the Constitution.

It was evidently the intention of the framers of the Constitution to found a government deriving its authority from the people rather than from the States. The purposes for which this was done are set forth in the following enacting clause, commonly called the preamble:

The preamble.

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

This clause was attacked vigorously by the opponents of the Constitution, and especially in the Virginia and the North Carolina conventions. Said Patrick Henry: "And here I would make this inquiry of those worthy characters who composed a part of the late Federal

Convention. . . . I have the highest veneration for those gentlemen; but sir, give me leave to demand, what right had they to say We the people? . . . Who authorized them to speak the language of, We the people, instead of, We the States? If the States be not the agents of this compact, it must be one great, consolidated, National government, of the people of all the States." It was argued, on the other hand, by Randolph, Madison, and others, that the government under the Articles of Confederation was a failure and that the only safe course to pursue was to have a government emanating from the people instead of from the States, if the union of the States and the preservation of the liberties of the people were to be preserved.

SUPPLEMENTARY QUESTIONS AND REFERENCES

1. Consult American History, chapter 13, for additional material on the topics in this chapter.

2. Why was Annapolis selected as the place of meeting? Madison, *Journal of the Constitutional Convention*, 37.

3. For an account of Hamilton's resolution and its origin, see Madison's *Journal*, 37-41.

4. Was the calling of a convention to remodel the articles a new idea? Madison's *Journal*, 43-45.

5. Why did Congress, at first, object to the Hamilton resolution? Fiske, *Critical Period of American History*, 217.

6. State the problems connected with the appointment of delegates in some of the States. McMaster, *History of the People of the United States*, I, 390-399.

7. For an account of the members of the Convention, see Hart, *American History told by Contemporaries*, III, 205-211.

8. For the contributions of the individuals and the classes of delegates, see Walker, *The Making of the Nation*, 23-27; Fiske, *Critical Period*, 224-229; McMaster, I, 418-423.

9. Why did not Hamilton take a prominent part in the debate

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before June 18? Give the chief points in his address of that date. Madison's Journal, 175-187.

10. What were the significant points made by Madison in his speech of June 19? Madison's Journal, 187-196.

11. Why did the New York delegates leave the Convention? Bancroft, VI, 259-260; Fiske, Critical Period, 254.

12. What was the attitude of the various members of the Convention toward the Constitution? Who refused to sign? Their reasons? Bancroft, VI, 364-367.

13. Discuss the peculiar conditions in Massachusetts. Give the arguments presented. Schouler, I, old ed., 59, 60; new ed., 66-68; Walker, 56-57; Fiske, Critical Period, 316-331.

14. How was the Constitution regarded in Virginia? Bancroft, VI, 426-436; Walker, 58, 60; Schouler, I, 70-75; Fiske, Critical Period, 334-338.

15. In what way did Virginia influence New York? What was the attitude of the New York Convention toward the Constitution? Bancroft, VI, 455-460; Walker, 60, 61; Schouler, I, old ed., 66, 67; new ed., 77-78; Fiske, Critical Period, 340-345.

16. *a.* What objections were offered against the Constitution in North Carolina? Hart, American History told by Contemporaries, III, 251-254.

b. What would have been the status of North Carolina and of Rhode Island if they had not ratified? Walker, 73, 74; Hart, Formation of the Union, 132, 133.

17. For a good account of the first Presidential election and the inauguration of the new government, see Fiske, Critical Period, 346-350; Schouler, I, old ed., 74-86; new ed., 79-92.

CHAPTER XIV

ORGANIZATION OF THE LEGISLATIVE DEPARTMENT

All legislative powers herein granted shall be vested in a Congress of the United States which shall consist of a Senate and House of Representatives.

Article I,
section 1.

In the Constitutional Convention, Pennsylvania was the only State which objected to the resolution that a legislative body consisting of two houses should be formed. The single house of the Confederation was regarded as a failure. It was believed that one house would form a check upon the other, and that there would thus be less danger of hasty and oppressive legislation. As already noted, the bi-cameral system existed in all of the States, Pennsylvania and Georgia excepted, and the names Senate and House of Representatives were also in common usage.

A Congress
of two
houses.

The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

Section 2,
clause 1.
Term of
members
and qualifi-
cations of
electors.

It is somewhat difficult for Americans to remember that members of Congress, although elected by the people or by the State legislatures, are not, in consequence, compelled to receive instructions from their constituents. Each member is supposed to use his own best judgment on any question, and, like a member of the English House of Commons, ask: "What is for the good of the Nation?" Personal views are frequently sacrificed, however, for party interests.

Responsi-
bility of
members of
Congress.

Judge Cooley says on this question:

"Their own immediate constituents have no more right than the rest of the Nation to address them through the press, to

appeal to them by petition, or to have their local interests considered by them in legislation. They bring with them their knowledge of local wants, sentiments, and opinions, and may enlighten Congress respecting these and thereby aid all members to act wisely in matters which affect the whole country; but the moral obligation to consider the interest of one part of the country as much as that of another, and to legislate with a view to the best interests of all, is obligatory upon every member, and no one can be relieved from this obligation by instructions from any source." *

Representatives
elected by
the people.

When the Constitution was framed, some of the State constitutions required a higher qualification in voters for the upper house of their legislatures than in voters for the lower house. With the object of making the House of Representatives the more popular branch, it was decided to grant the right of voting for a Representative to any person who might be privileged to vote for a member of the lower house of the legislature of his State. The one limitation upon the freedom of a State to determine what these qualifications are, is given in Amendment XV:

Amendment XV.

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

This amendment was proposed by Congress in February, 1869, and was declared in force March 30, 1870. It was intended to grant more complete political rights to the negroes recently declared, by Amendment XIV, to be citizens.

Section 4,
clause 2.

The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

A Congress.

Members of the House of Representatives are chosen for a term of two years, which period also determines

* Cooley, Principles of Constitutional Law, 41, 42.

the length of a Congress. This election is held, in all but three of the States,* on the Tuesday after the first Monday in November, of even-numbered years, and the term begins legally on March 4 succeeding the time of the election.† Except in the case of a special session, the members do not enter upon their duties until the first Monday of the following December, thirteen months after the election.

Each Congress has two regular sessions. The first, beginning in December of an odd-numbered year, is called the "long session," for its length is not determined by a definite date of adjournment. It usually lasts until the following midsummer and may not extend beyond the first Monday in December, the time fixed for the beginning of the next session. The second, or "short session," cannot extend beyond 12 M., March 4, the time set for a new Congress to begin. The President may convene Congress in special session.

Sessions of Congress.

The first Monday in December of each second year is a notable day in Washington, for the formal opening of a new Congress brings thousands of visitors to the city. In the House of Representatives the organization must proceed as if the body had not met before. To the Clerk of the preceding House are intrusted the credentials of the members, and from these he makes out a list of the members who are shown to be regularly elected. At the hour of assembly he calls the roll from this list, announces whether or not a quorum is present, and states that the first business is to elect a Speaker. After his election the Speaker takes the oath of office.

The meeting and organization of Congress.

* Oregon holds its election on the first Monday in June; Vermont on the first Tuesday in September; and Maine on the second Monday in September.

† The first Congress extended legally from March 4, 1789, to March 4, 1791.

The Senate is a "continuing body" and no formal organization is necessary. At the opening of a new Congress the Vice-President calls the body to order and the other officers resume their duties. After the President *pro tempore* has been chosen, the newly elected members are escorted to the desk in groups of four and the oath is administered by the President of the Senate. Each house, when organized, notifies the other of the fact and a joint committee of the houses is appointed to wait upon the President and inform him that quorums are present and are ready to receive any communication he may desire to send.

Section 2,
clause 2.
Qualifica-
tions of
Representa-
tives.

No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not when elected be an inhabitant of that State in which he shall be chosen.

A great diversity of qualifications for members of the State legislatures existed in the various State constitutions. With such differences of opinion, it was agreed to make the positive qualifications for members of the National legislature few and simple. They pertain to age, citizenship, and inhabitancy, and the opinion prevails that the States may not add others. It has been the belief in the United States that an inhabitant of a State has a deeper concern for the interests and represents the people of his State more completely than a stranger. Hence, a Representative is not only required to be an inhabitant of the State, but custom has decreed that he must also be an actual resident of the district which he represents. It sometimes happens in New York City, however, that an "up-town" resident is elected to represent a "down-town" constituency.

May the House refuse to admit a person duly elected and possessing the constitutional qualifications? This question arose

in the 56th Congress in the case of Brigham Roberts, of Utah, and he was excluded on the ground that he was a polygamist.

Section 2, Amendment XIV, which became a part of the Constitution July 28, 1868, contains the rule of apportionment which is now in operation.

It declares that:

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Apportionment of Representatives.

Amendment XIV, section 2.

When the amendment was proposed, negroes had been granted the right of suffrage in only a few States, and Congress believed that rather than have the number of their Representatives reduced the other States would also be willing to grant them complete political rights. Tennessee was the only Southern State which ratified the amendment, but since Amendment XV became a part of the Constitution before the next apportionment of Representatives was made, this section was not put into practical operation. Each State may still determine for itself who has the right to vote within its limits. (See page 43.)

A few of the States, as Pennsylvania, require a property qualification, and about one-third require an educational qualification for voters. In Massachusetts he must be able to read

the State constitution in the English language, and write his own name unless prevented by physical disability or was sixty years of age when the amendment went into effect. In Louisiana and South Carolina the voter must either be able to read and write or possess property valued at three hundred dollars. It has been claimed that the object of some of these amendments was not alone to exclude illiterate voters. In proof, it is shown that what has been called the "grandfather clause" in some cases dispenses with the educational qualification. This provides, as stated in the constitution of North Carolina, that "no male person who was on January 1, 1867, or at any time prior thereto, entitled to vote under the laws of any State in the United States wherein he then resided, and no lineal descendant of any such person, shall be denied the right to register and vote at any election in this State by reason of his failure to possess the educational qualifications prescribed." The question has arisen, Should not section 2 of Amendment XIV be enforced? for the various restrictions exclude thousands of adult male citizens from voting. Thus far no action has been taken, although the Republican party in the National platforms of 1904 and 1908 pledged itself to enforce this provision.

The original method of apportionment was as follows:

Article I,
section 2,
clause 3.
Original
method of
apportion-
ment.

Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsyl-

vania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

The three-fifths rule was rendered void by the adoption of Amendment XIII, which abolished slavery. There were then no longer the "other persons." That part of the clause providing for the laying of direct taxes is still in force. Really the Southern States were favored. In practical operation, while their direct taxes were increased, these were imposed only on five occasions, and the States of the South secured a large increase of Representatives. The Indians "not taxed" doubtless refers to those Indians who still maintain their tribal relations or live on the reservations. Their number, according to the census of 1910, was 129,518.

A careful enumeration of the population of the United States had not been made in 1787. In order to carry out this provision of the Constitution, the first census was taken in 1790 and there has been one every ten years since that time. The taking of the census and the compilation and publication of the statistics connected with it are under the supervision of the Director of the Census. The principal reports in the census are those on population, manufactures, and agriculture. On account of the establishment of a permanent census bureau, in 1902, the work of taking the census is now conducted with much greater economy and efficiency.

The
Census.

According to the original method of apportionment, the number of Representatives was not to exceed one for every 30,000 people, and the House contained 65 members. Various methods were used in ascertaining the ratio of representation after each census until 1870, when the present system was employed for the first time.

The ratio
of repre-
sentation.

The House of Representatives, after March 4, 1903, according to the reapportionment act of January 12, 1901, had 386 members as a minimum, the ratio being one Representative to

Apportion-
ment of
1901.

194,182 of the population. An effort was made to keep the number at 357 as established by the reapportionment act of 1891, but no ratio could be found which would enable this to be done without taking from some of the States one or more of their present Representatives.

Members
from new
States.

The Representatives of States coming into the Union after the apportionment is made are always additional to the number provided for by law. Thus when Oklahoma was admitted five Representatives were added, making 391 members in all.

Apportion-
ment of
1911.

According to the census of 1910, several States were entitled to additional members, but in order that no State should be reduced, the House of Representatives passed a bill providing for an increase of 42 members. The new ratio would then be one Representative to 211,877 people. Effort was made to prevent this increase, for it was argued that the House had already become unwieldy, requiring great effort on the part of members to make themselves heard. The bill failed to pass the Senate at the regular session but subsequently, at the special session, it was passed and became a law.

The number of members in the House of Commons is 670; in the French Chamber of Deputies, 584; and in the German Reichstag, 396.

Territorial
delegates.

Arizona, Alaska, Hawaii, and Porto Rico are each entitled to send one delegate and the Philippine Islands two delegates to the House of Representatives. These delegates have the privilege of speaking in the House but may not vote.

Section 2,
clause 4.

When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

Vacancies.

When a vacancy occurs in the representation from any State on account of death, expulsion, or for other cause, it is made the duty of the Governor of the State in which the vacancy exists to call a special election in that district to choose a Representative for the remainder of the term.

Section 2,
clause 5.

The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment.

The Speaker is always a member of the House.* The other officers are the Clerk, Sergeant-at-arms, Door-keeper, Postmaster, and Chaplain, none of whom is a member of the House. The Clerk calls the House to order at the first meeting of each Congress, and acts as the presiding officer until a Speaker is elected. He keeps the record of all questions of order that arise, certifies to the passage of bills, and has charge of the printing of the House Journal. The Sergeant-at-arms sees that good order is preserved.

Officers
of the
House.

The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof for six years; and each Senator shall have one vote.

Section 3,
clause 1.

This clause constitutes a part of the celebrated compromise between the large and the small States. There was also great diversity of opinion with regard to the number of members in the Senate and their apportionment among the several States. After equality of representation in this body was decided upon, there still remained the question as to the number from each State. Were there to be three or two? Finally two, the smallest number of Representatives to which a State was entitled under the Confederation, was adopted.† Unlike the delegates in the Continental Congress, the Senators do not vote by States. The two Senators from a State may and often do vote on opposite sides of a question. Other questions arose such as: Were the Senators to be chosen by the legislature of each State; by the people of the States; or by the House of Representatives either directly or from candidates nominated by the State legislatures? The reasons for the unanimous adoption of the first plan

Number,
election,
and term
of office of
Senators.

* For an account of the Speaker and his power in legislation, see pp. 175-177.

† The Senate, 1912, contains ninety-four members; the English House of Lords 560, and the French Senate 300.

seems to have been that it would connect the State governments more closely with the National government, and that the powers of the States would not be unduly encroached upon by the general government. Alexander Hamilton was in favor of choosing Senators for life or during good behavior. Terms of nine years, of seven years, of six years, of five years, of four years, and of three years were also proposed. Six years was thought to be most satisfactory, for it would secure permanence of governmental policy and responsibility in the Senators, and at the same time guard against the dangers of a life tenure in which desirable changes would be too much resisted.

The modifications introduced by the next clause seem to have been intended to provide against any permanent combination among the members.

Section 3,
clause 2.
Classes of
Senators.

Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year; and of the third class, at the expiration of the sixth year; so that one-third may be chosen every second year, and if vacancies happen by resignation or otherwise, during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

According to this provision, at the first session of the first Congress, the Senators were divided into three classes. Senators from the same State are always placed in separate classes, and the Senators from a new State are assigned in such a manner as to preserve the classification. The classes they are to enter is determined between them by lot drawn in the presence of the Senate. Thus, the Senators from Utah were assigned to the two- and the four-year

classes, and neither of them served the full term of six years.

A Senator appointed by the Governor of a State during the recess of the State legislature holds the office until the next meeting of the legislature, or, in case that body fails to elect his successor, until the end of the session of the legislature.

If, after a Senator's term expires, the legislature fails to elect his successor, the question arises, may the Governor fill the vacancy by appointment? In several instances the Senate has decided against this procedure, and the decision in another case in April, 1900, would seem to indicate that it proposes to carry out the precedent.

If the legislature does not elect a Senator.

No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State from which he shall be chosen.

Section 3, clause 3. Qualifications of Senators.

Members of the Senate are ordinarily older than members of the House. They are men also who, as a rule, have been prominent in public affairs, National or State. Because of their training and the control by the Senate over treaties and certain of the appointments, Senators have been conceded greater political power than Representatives.

The Vice-President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided.

Section 3, clause 4. President of the Senate.

The Senate shall choose their other officers, and also a President pro tempore, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

Section 3, clause 5.

The officers of the Senate are President, Secretary, Chief Clerk, Sergeant-at-arms, Chaplain, Postmaster, Librarian, and Door-keeper, none of whom is a member of the Senate. The Vice-President of the United States is

Other officers of the Senate.

President of the Senate, but has no vote "unless they are equally divided." He cannot take part in the debates nor appoint the Senate committees. These committees, as well as the other officers, are chosen by the Senate. Their duties are similar to those of the corresponding positions in the House.

The President *pro tempore*.

It is desirable, in the absence of the Vice-President, that the Senate shall have a presiding officer, and so at the opening of the session that body chooses from its own members a President *pro tempore*. He may vote on any question, but cannot cast the deciding vote in case of a tie.

Oath of office.

The Vice-President takes the oath of office when he is inaugurated. On the first day of the session he administers the oath of office to the new Senators, who swear to support the Constitution and the laws of the United States.

Section 4, clause 1. Power of Congress over the elections of Senators and Representatives.

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the place of choosing Senators.

Method prescribed for the election of Senators.

Congress did not exercise its authority in the election of Senators prior to 1866. Many disturbances had arisen between the houses of the legislatures over the mode of election, and an act of that year provided for the present uniform system as follows: The legislature chosen next before the expiration of the term of a Senator shall proceed to elect his successor on the second Tuesday after its organization. On that day each house must vote separately by a *viva voce* vote and enter the result on its journal. The two houses are required to meet in joint assembly at 12 M. the following day, when the results are read. If the same person has received a majority of the votes in both houses, he is elected. If no person have

such majority, the joint assembly must take a *viva voce* vote and the person receiving a majority of such votes is elected, providing a majority of all the members elected to both houses are present and voting. Should there still be no election, the joint assembly must meet at noon on each succeeding day and take at least one vote until a Senator shall have been chosen. The procedure is the same in the case of a vacancy which has occurred before the legislature has assembled. When the vacancy happens during the session of the legislature, it must proceed in the same way the second Tuesday after receiving notice of the vacancy. The usual practice, however, in the States where direct nomination has not been adopted, is for the members of the different parties in the legislature to meet in separate caucuses and agree upon the candidates which they will present to the legislature.

"Deadlocks" in the election of Senators have frequently occurred. In 1899, the legislature of Pennsylvania cast seventy-nine ballots and finally adjourned without electing a Senator. The legislature of Nebraska, in 1901, voted for three months before a Senator was elected. It is stated that at least half the States have, during the past fifteen years, suffered from deadlocks. At times also the votes of individual members in some of the legislatures have been secured by bribery. Because of these and other abuses the agitation in recent years for the election of Senators by popular vote has been more pronounced. The House of Representatives has passed the resolution a number of times providing for an amendment to the Constitution which would secure the election of Senators by popular vote. More than two-thirds of the State legislatures have gone on record in favor of such a reform. But not until 1911 was this proposal to amend the Constitution reported to the Senate for favorable action. The vote on the resolution stood 54 in favor and 33 against. Thus the necessary two-thirds lacked four votes.

Popular
election of
Senators

Meantime, in a number of the States there has been the attempt to get around the constitutional difficulty. The so-called Oregon plan really provides for the direct election of Senators.

The
Oregon
plan.

According to this plan each party nominates its candidate in a primary election. The names of these candidates are then placed on the State ticket and are voted for at the general election. The person receiving the highest number of votes is declared to be the choice of the people. To make these steps effective, candidates for the legislature may be pledged, in their petition for the primary, to vote for that candidate for United States Senator who has received the highest number of votes at the general election, without regard to their own personal preference. By such a process, it has happened that a Senator has been chosen of a different political party from that having the majority in the State legislature.

Time and
method of
choosing
Represent-
atives.

The time for the election of Representatives has been prescribed by Congress to be the Tuesday next after the first Monday in November of the even-numbered years. The Constitution provides that they shall be elected by the people. For many years there was variation in the practice of the States, some electing their Representatives by districts, others at large. Since 1842 Congress has required the district plan. But a State receiving an additional Representative, by a new apportionment, may elect him at large until the State is redistricted.

Redistrict-
ing the
States.

The process of districting the States is under the control of the State legislatures, and is usually performed during the first session after a new apportionment has been made, although some States are redistricted more frequently. The only restrictions placed upon the legislatures are those contained in a Congressional act of February 2, 1872, which provides that the districts shall be composed of contiguous and compact territory and contain, as nearly as practicable, an equal number of inhabitants.

"Gerry-
mander-
ing."

The desire to secure party advantage has often led to the manipulation of district lines in a most unfair manner. We have good examples of this method in the redistricting of some of the States after each census. Thus, portions

of a State containing large numbers of voters of the opposing party have been annexed to a district which could not be carried by the party having a State majority. Or at times territory, consisting either of one or more counties or a portion thereof, which had voters that could be spared by the majority party in one district has been united with some other district where the majority of their adversaries could thus be offset. Territory has been regarded as contiguous when it touched another portion of the district at one point. As a consequence, peculiarly constructed districts are to be found in some of the States, such as the "monkey-wrench" district of Iowa. When the Representative districts of a State have been in this manner the objects of political manœuvring or when a similar system has been used in forming State legislative or judicial districts, the State is said to have been "gerrymandered." *

The origin of the expression is described in the following: "So called from Elbridge Gerry, a leading Democratic politician in Massachusetts (a member of the Constitutional Convention of 1787, and in 1812 elected Vice-President of the United States), who, when Massachusetts was being re-districted, contrived a scheme which gave one of the districts a shape like that of a lizard. A noted artist entering the room of an editor who had a map of the new districts hanging on the wall over his desk, observed, 'Why, this district looks like a salamander,' and put in the claws and eyes of the creature with his pencil. 'Say rather a Gerrymander,' replied the editor, and the name stuck." Other writers have maintained that Mr. Gerry was opposed to this scheme.

Origin of
"Gerry-
mander."
Bryce,
American
Common-
wealth, I,
121.

SUPPLEMENTARY QUESTIONS AND REFERENCES

1. What is the number of the present Congress? Give the times for the beginning and end of each session.
2. For a discussion on the time when Congress should convene, see Beard, *American Government and Politics*, pp. 248, 249.

* City wards have also been "gerrymandered."

3. It is not required by law that a Representative should reside in the district that he represents, but it is an established custom. What are its advantages and its disadvantages? Compare with the English practice. Bryce, *American Commonwealth*, I, chapter 19, 186-190.

4. Do you favor an educational qualification for voters? Why?

5. Were the States mentioned on pp. 125-126 justified in the enactment of their suffrage laws?

6. Should section 2, Amendment XIV, be enforced? Rev. of R's, 22 : 273-275; 653, 654; 25 : 716-718; Forum, 31 : 225-230; Outlook, 70 : 791-792.

7. What are the points of likeness and of difference between the House of Representatives and the House of Commons? N. Am. Rev., 170 : 78-86.

8. How large is your Congressional district? Compare its area with that of other districts in your State. What is its population? Compare this with the ratio of apportionment; also with the population of other districts in your State. Compare the number of votes cast for Representative in your district with the number cast in districts of other States in different sections of the country. How do you account for the variations? See *New York World Almanac*.

9. Give the number of Representatives to which your State is entitled. Was the number increased in the last apportionment?

10. With the admission of New Mexico or of Arizona how many Representatives would be added? How many Senators? Why were these territories not admitted by the 61st Congress (1911)?

11. For "gerrymandering," effects, and remedy, see Outlook 97 : 186-193; Beard Readings in *American Government and Politics*, 219, 220.

12. For accounts of the method by which a census is taken, see *American Census Methods*, Forum, 30 : 109-119; Merriman, *Census of 1900*, N. Am. Rev., 170; Durand, *Census of 1910*, Rev. of R's, 41 : 589-596; 404-405.

13. What were the results of the Census of 1910; present population; distribution of the population; and growth during the century? *World's Work*, 21 : 13838-13842.

14. Who are some of the best known Representatives and Senators? For what reasons are each noted?

15. Who are the Senators from your State? When was each elected?

16. Give the names of the Speaker, and of the President *pro tempore*.

17. Should Senators be elected by the votes of the people? Beard, Readings in American Government and Politics, 226-233; Outlook, 97 : 351, 352; 389-392; Haynes, The Election of Senators (arguments for), 153-210; (arguments against), 211-258; Rev. of R's, 42 : 133-140; Forum, 42 : 142-147; Indept., 63 : 847-851; 64 : 1311-1312; 66 : 267-268.

18. The power of the Senate, N. Am. Rev., 174, 231-244; Reinsch, Readings on American Federal Government, 146-155.

19. Ought there be an amendment to the Constitution providing for uniform qualifications for suffrage?

CHAPTER XV

POWERS AND DUTIES OF THE SEPARATE HOUSES

I. IMPEACHMENT.

Article II,
section 4.

The President, Vice-President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

Article I,
section 2,
clause 5.

The House of Representatives shall . . . have the sole power of impeachment.

Section 3,
clause 6.

The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

Section 3,
clause 7.

Judgment in cases of impeachment shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law.

Who
may be
impeached.

The term "civil officers" is here used in distinction from military and naval officers, who are tried for offences by courts-martial. Members of Congress may not be impeached. It has been determined that they are subject only to the rules of the house of which they are members.

What constitutes high crimes and misdemeanors has never been accurately defined, but they are understood

to be those offences of an official nature which the ordinary courts of law cannot reach; such as, abuse of power, acceptance of bribes, or intemperance.

The House of Representatives has the sole power to prefer charges of impeachment. These take the place of the indictment in the ordinary criminal trial. The Senate has the sole power to try all impeachments. The Chief Justice of the United States must preside in the trial of the President, while in ordinary trials the presiding officer is the Vice-President or the President *pro tempore*. The manner of conducting the trial resembles that of a trial by jury. Each Senator is sworn to be impartial in his decision; managers from the House present the charges at the bar of the Senate; the accused may answer in person or through his counsel; and witnesses are examined. When all the evidence has been submitted, the Senate deliberates on the case in secret session. In order that impeachment may not be used for party purposes, it is provided that there shall be no conviction except by a two-thirds vote. During the progress of the trial, the officer impeached is permitted to perform his regular duties.

The
method of
trial.

No action can be taken by the Senate other than to remove the convicted official from office and to disqualify him from holding any office under the United States. If the offence upon which the conviction is secured is one punishable by law, the person is liable to a regular trial in the courts. The President may not grant a pardon in cases of impeachment.

Judgment
on conviction.

Largely because of the cumbersome method of procedure, the number of impeachment trials has been small. These have been the following: Senator William Blount in 1799; Judge John Pickering of the United States Supreme Court in 1803; Judge Samuel Chase of the United States Supreme Court in 1804; Judge James H. Peck of the Federal District Court in 1830; Judge W. H. Humphries of the United States District Court in 1862; President Andrew Johnson in 1868; Secretary of War W. W. Belknap in 1876; Judge Charles Swayne of the United States District Court in 1904; Judges Pickering and Humphries were convicted.

Impeach-
ment trials.

II. THE QUORUM, JOURNAL, AND FREEDOM OF SPEECH.

Section 5,
clause 1.
Determina-
tion of
member-
ship and
quorums.

Each house shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

It is obvious that the power to judge of the elections, returns, and qualifications of members of a legislative body, must exist somewhere. This right could not be better placed than in the houses constituting the legislative body, for by the exercise of this right the independence and purity of the houses are preserved.

Contested
seats in the
Senate.

In the Senate the question raised in a contest usually applies to whether a Senator has been duly elected. Numerous cases have been tried upon the ground that elections have been secured by bribery and corruption. Among the most noted contests was that which arose in 1911, over the report of the Senate investigating committee in the case of Senator Lorimer of Illinois. A majority of the committee reported that the charges of bribery had not been proven. In the discussion before the Senate it was maintained by the leading advocates for Mr. Lorimer's right to his seat in the Senate that purchased votes were not to be counted and that he had received a majority of unquestioned votes in the legislature. This view was characterized by the opposition as dangerous and alarming. Finally, after a debate extending over many days in which the foremost Senators took part, the minority report, which asserted that Senator Lorimer, of Illinois, was not "duly and legally elected," was lost by the vote of 46 to 40. The outcome will doubtless do much to strengthen the demand for the election of Senators by popular vote.

In the House the name of the person possessing the certificate of election signed by the Governor of his State is entered on the roll of the House, but the seat may still be contested. Many cases of contested elections are considered by each new House. Each of the cases when presented to the House consumes from two to five days which might otherwise be used for the purposes of legislation. The law provides that not more than \$2,000 shall be paid either of the contestants for expenses, but even then, it is estimated, these contests cost the government, all told, \$40,000 annually. When the decision is rendered by the House, the vote is, in most cases, strictly on party lines, regardless of the testimony. In view of these facts, it has been suggested that the Supreme Court should decide all contested elections.

Contests in
the House.

Fifteen members, including the Speaker, may be authorized to compel the attendance of absent members. This is accomplished as follows: the doors of the House are closed, the roll is called, and absentees noted. The Sergeant-at-arms, when directed by the majority of those present, sends for, arrests, and brings into the House those members who have not a sufficient excuse for absence. When a quorum* is secured the business is resumed.

What con-
stitutes a
quorum.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Section 5,
clause 2.
Rules and
discipline.

The right to make its own rules is usually intrusted to every assembly, and this power should be vested in the houses of the National legislature. But rules would be without value unless there were some means of punishment provided for those who disregard them. It is also desirable that, in extreme cases, there should be some method of redress. The two-thirds vote necessary to expel a member seems wise in order that expulsion may

* For the power of the Speaker in counting a quorum, see p. 176.

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not be easily used in the interest of a faction or of a political party.

Section 5,
clause 3.
The Journal.

Each House shall keep a journal of its proceedings and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either House on any question shall, at the desire of one-fifth of those present, be entered on the journal.

By means of the Journal, read at the opening of each day's session, the official record of the proceedings of Congress is made known to the public. The debates do not appear in the Journal, but are published each day in the "Congressional Record."

The yeas
and nays.

Another means of keeping constituents informed on the position of their Representatives is through the recording in the Journal of the vote of each member upon the demand of one-fifth of those present. In voting by the "yeas and nays," the Clerk calls the roll of members and places after each name, "yea," "nay," "not voting," or "absent." The Senate rules specify this as the only method of voting. (Other methods of voting are indicated on p. 150.)

Section 5,
clause 4.
Power to
adjourn.

Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

Without such a provision it would be possible for either House, by adjourning, to block effectually all legislation. If there is a disagreement between the two Houses with respect to the time of adjournment, the President may adjourn them to such a time as he thinks proper. He is also authorized by law to convene Congress at some other place than Washington, in case of the existence there of contagious disease or of any other conditions which would place life or health in jeopardy.

The Senators and Representatives shall receive a compensation for their services to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

Section 6,
clause 1.
Compensation and
freedom
from
arrest.

The question, ought compensation to be given members of legislative assemblies or should their services be regarded as honorary, gave rise to a heated discussion in the Constitutional Convention. Members of the State legislatures were receiving salaries, but members of the English Parliament were not. Finally, the American practice prevailed, for it was thought that men of ability, though poor, might thus be enabled to enter the National legislature, and that the position might be made more attractive than that of membership in a State legislature.

Salaries
paid
Senators
and Representatives.

The compensation of Senators and Representatives from 1789 to 1815 was six dollars a day and thirty cents for every mile travelled, by the most direct route, in going to and returning from the seat of government. Prior to 1907, this amount was changed several times by act of Congress. The compensation then agreed upon was \$7500 *per annum*, with mileage. An allowance is also made each member for clerk hire and stationery. To many this seems a large salary, but the great expense of living in Washington renders the amount quite inadequate. Many members make a financial sacrifice in accepting a seat in Congress.

As already noted, a member of Congress may be punished for an offence by the House to which he belongs. It is manifest that he should be free from arrest, except in case of treason, felony, and breach of the peace; otherwise his district might, sometimes under false charges, be deprived of representation, and National legislation be interrupted.

Privilege
from
arrest.

Freedom of
debate.

Freedom of speech is quite as important in a representative government as freedom of person. This privilege extends to all utterances used in the course of legislation. Since all Congressional debates are published, it is held to apply to them also.

Section 6,
clause 2.
Disqualifi-
cation to
hold other
offices.

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased, during such time ; and no person holding any office under the United States shall be a member of either House during his continuance in office.

The purpose of this provision, which was discussed at considerable length in the Constitutional Convention, seems to have been to remove the temptation on the part of Congressmen to create offices or to increase the emoluments of those already existing in order to profit by such legislation. It was also thought necessary to guard against bargaining. The President, in order to secure certain legislation, might agree to appoint to offices thus created Congressmen who aided him.

The exclusion of United States officials from seats in Congress was due to the desire of appeasing State jealousy, which asserted that the National government would secure an undue influence over the State governments. It is advocated, with good reason, that members of the Cabinet should be privileged to take part in the discussion of measures in Congress which pertain to their own departments. Alexander Hamikton asked for this privilege, but it was refused because of the fears of his influence. The precedent thus established has always been retained. But since executive officers are often invited to present their views before committees of Congress, they may exert great influence upon legislation.

CHAPTER XVI

PROCEDURE IN CONGRESS

THE first step in the enactment of a law is the introduction of a bill. In the House of Representatives the bill, indorsed with the name of the member introducing it, is placed in a basket on the Reading Clerk's desk. It is then referred to a committee by the Parliamentary Clerk. In the Senate, the member introducing a bill rises, is recognized, and asks leave to introduce it.

FORM OF A BILL

56TH CONGRESS
1ST SESSION

H. R. 6071

[Report No. 376.]

IN the House of Representatives

JAN. 12, 1900.

Mr. Loud introduced the following bill, which was referred to the Committee on Post-Offices and Post-Roads and ordered to be printed.

FEB. 19, 1900.

Reported with amendments, referred to the House Calendar, and ordered to be printed.

A BILL

To amend the postal laws relating to second-class mail matter.

- 1 Be it enacted by the Senate and House of Repre-
- 2 sentatives of the United States in Congress assembled,
- 3 That mailable matter of the second class shall embrace

The introduction and reference of bills take place during sessions of the Houses, but the bills do not come up for consideration until the committees report them back.

The
committee
system.

Before proceeding further with the history of a bill we must notice a most important feature of Congressional machinery—namely, the committee system. Almost every deliberative body finds it convenient to intrust certain parts of its business to committees. When the assembly is large, and especially when the mass of business is great, committees are absolutely necessary. After a committee has given consideration to any matter in its charge, it submits to the main body a report recommending whatever course of action it deems wise. The assembly may either adopt or reject this report. In Congress many thousands of bills are introduced in a single session. By far the greatest part of the work of Congress, therefore, must be done in committees. To these committees all bills must be referred. The chairman of each committee and a majority of its members are selected from the party having a majority in the house where the committee originates.

For many years it was the custom that committees in the House should be appointed by the Speaker; but in the first session of the 62d Congress (a special session meeting in April, 1911) a new rule was adopted under which all committees are elected. In the Senate, also, committees are elected; that is, the Senators of each party, acting in separate caucuses, select the members who are to serve on the various committees.

In the 60th Congress 28,000 bills were introduced in the House and 9,500 in the Senate. In the next Congress there were 61 House committees, varying in membership from 5 to 19. In this Congress 33,015 bills were introduced in the House. In the 62d Congress the principal committees consisted of 21 members each—14 Democrats and 7 Republicans. Among

the most important standing committees of the House are the following: Ways and Means (the most important because it has charge of bills for raising revenues), Appropriations, Judiciary, Interstate and Foreign Commerce, Post-Offices and Post-Roads, Military Affairs. The number of committees in the Senate was 72 in the 61st Congress. The names of a few are: Finance (corresponding to the Committee on Ways and Means in the House), Agriculture, Commerce, Foreign Relations, Indian Affairs, Railroads, Public Lands.

Both in the House and in the Senate, every member is on some committee, and some members have places on several committees.

Over the bills placed in their charge, committees have a great degree of control. "They may amend a bill as they please; they may even make it over so entirely that it is really a new bill, reflecting the views of the committee rather than the views of the originator." The power of House committees to kill bills by refusing to report them was exercised for many years, until it was taken away, in 1910, by a new rule under which a majority of the House may discharge a committee from further consideration of a bill. It may then be brought before the House in spite of the committee's opposition.

Power of
committees
over bills.

The influence of committees in determining what laws shall be passed is further shown by the following facts: (1) Their sessions are secret and their proceedings are seldom published. Committees frequently conduct "hearings," however, which are generally public, and at which testimony and arguments are presented by both friends and opponents of a measure. (2) Only a very small proportion of the bills referred are ever reported back to the House. (3) The House really deliberates upon only a few of the most important bills that are reported. It accepts the recommendations of the committees as to the proper disposition of the great majority of these bills, and they are passed or rejected without question or de-

bate. About five or ten per cent. of the measures introduced become laws, and only a small number of these are bills of importance.

Responsi-
bility of
committees

Only in small measure, therefore, do we have, in the House, legislation by deliberation and debate.* The power intrusted to the committees is so great that nothing but the personal integrity of the Representatives can prevent its abuse. Corrupt influences may easily be brought to bear upon them, for there are always present in the "lobby" men whose sole aim is to influence legislation in this way. Since the committees are held responsible only in a slight degree for the business intrusted to them, the detection of such evils is very difficult.

The
calendars.

When a bill is reported back to the House it is placed on one of three calendars: the first, known as the "Union Calendar," contains all bills for raising revenue and all bills of a public character appropriating money; the second, or "House Calendar," all other bills of a public character; the third, all private bills. Bills are not ordinarily brought before the House for discussion in the order in which they stand on these calendars. Whether a bill will ever get farther than the calendar depends to some extent upon its importance and merits, but chiefly upon the skill and influence of the member who has charge of it. This is generally the chairman of the committee that reported the bill.

The above statement is subject to modification in two ways. (1) A fourth calendar, known as the Unanimous Consent Calendar, contains bills that were originally upon the first two calendars mentioned, but which have been transferred to it at the request of a member. When this calendar is before the House, bills may be called up in the order in which they stand upon it, by unanimous consent; that is, if no member objects. (2) Another rule (since 1910) establishes "Calendar Wednesday," which will be explained on p. 149.

* There is much debate, however, in connection with appropriation bills.

Like all similar bodies, the House has an "order of business" laid down by the Rules. (1) After the prayer by the chaplain each day's business is opened by the reading and approval of the Journal. (2) Then the Speaker lays before the House messages from the President, reports and communications from heads of departments, etc., which are at once referred to special or standing committees. (3) Next in order comes unfinished business. (4) The rules provide that on all days except the second and fourth Mondays of each month,* one hour shall be given to a "call of the committees." During this "morning hour" "each committee when named may call up for consideration any bill reported by it on a previous day." At the expiration of one hour the House may go into "Committee of the Whole" (see pp. 150-151); or, the "morning hour" may continue a longer time. Beyond this order of business the procedure is too complicated for brief statement.

The
"order of
business."

The theory of the rule requiring a call of committees daily has not been observed in practice, so that there has been slight chance that a bill could be called up, except by consent of the Speaker. This condition was altered in 1910 by the rule requiring that on Wednesday of each week the list of committees *must* be called in their order, and that bills on the Union and House Calendars may then be considered.

It is during the call of the committees that a member in charge of a bill may secure *recognition*, that is, the right to speak. He thus brings his bill before the House.†

How a bill
gets before
the House.

* On these days the business reported by the Committee on the District of Columbia has precedence.

† A previous arrangement with the Speaker, or with the Committee on Rules, is necessary to secure recognition, except on "Calendar Wednesday," or for the consideration of bills on the Unanimous Consent Calendar, or those which have been taken out of the hands of committees. (See discharge of committee, p. 147.)

The consideration of this bill may occupy the entire hour, during which the member has *control of the floor*. After speaking, he generally *yields the floor*, temporarily, to others, both friends and opponents, who debate upon the bill or endeavor to amend it.

Methods of
voting.

Before a bill is brought to a final vote the Clerk reads it three times: the first time by title, the second time in full, and the third time by title only, unless the reading in full is demanded by a member. When the Speaker puts the question of the passage of a bill he says, "As many as are in favor say *aye*"; then "As many as are opposed say *no*." If he doubts which side has prevailed, or if a *division* is called for, a rising vote is taken. If he is still in doubt, or if a count is demanded by at least one-fifth of a quorum, two members are appointed tellers; the members voting in the affirmative pass between the tellers and are counted; then those favoring the negative. If the question is one that requires the *yeas* and *nays*, or if this method of voting is demanded by one-fifth of those present, the roll is called. Each member who wishes to vote responds when the Clerk reads his name. This process consumes half an hour or more. After the roll-call is completed, the Speaker announces the *pairs*. Members who belong to different political parties, or members of the same party, may agree that they shall be recorded on opposite sides of a question, whether they are present or not. Pairs may be arranged for particular votes only, for a given day, or for a longer time. This device enables a member to be absent from the House without feeling that his vote is needed, while at the same time a record has been made of his views.

Pairs

Committee
of the
Whole.

An important method of procedure remains to be described. At any time after the "morning hour," a motion is in order that the House go into "Committee of the Whole House on the State of the Union." Certain bills,

as those levying taxes and appropriating money, must be considered in Committee of the Whole. The Speaker leaves the chair, calling another member to his place as chairman. In Committee of the Whole great freedom of debate is allowed. Consequently, a bill receives much more discussion than under the general order of business. When the debate is closed, the committee *risés and reports*; that is, the Speaker returns to his chair and the chairman reports to the House whatever action has been agreed upon in the Committee of the Whole. The House then adopts this report. It is under this procedure that most of the long speeches reported in the "Congressional Record" are delivered. Frequently, instead of actually delivering his speech, a member merely makes a few remarks and asks *leave to print* the rest of it. Members frequently get reprints of their speeches (whether these were actually delivered or not) for distribution among their constituents and for campaign literature.

We have now followed the course of a bill from its introduction in the House, through the committee and the debate which it may receive, to the final vote on its passage. When a bill has passed the House it receives the signatures of the Speaker and the Clerk and is carried to the Senate. Here the presiding officer immediately refers it to a committee. The process of passing bills in the Senate is in general the same as in the House. Some differences in procedure will, however, be noted later. Each house has the right to amend a bill that has already passed the other house. If the house in which the measure originated does not accept the amendment the bill fails to become a law. Or, a *conference committee* may be arranged, which is composed of a few (generally three) members from the House and Senate committees that have previously considered the bill. If the conference committee succeeds in arranging a satisfactory compromise, each house will pass

The bill in
the Senate.

Conference
commit-
tees.

the bill in the form agreed upon and reported by this committee.

The power of enacting laws is not vested solely in Congress, but it resides to some extent in the President also. The manner in which the President may exercise his legislative authority is now stated.

Article I,
section 7,
clause 2.

Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bills shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress, by their adjournment, prevent its return, in which case it shall not be a law.

Reasons
for the
veto
power.

The President is expected to use his veto power whenever, in his opinion, a bill of Congress is unwise or unconstitutional. The division of the legislative power between these two departments of government is in accordance with the principle of "checks and balances" which we may find exemplified in many other parts of our National system. Hasty action on the part of Congress, or an attempt to encroach upon the jurisdiction reserved to the other departments or to the States, may be opposed by the

Presidential veto. The veto power is not absolute, however, since a determined majority of two-thirds of the members in both houses may prevail in spite of it. This feature of the system is based on a sound principle, also, since it must be presumed that the will of the people is more adequately represented in a Congress that is constituted in this way than in the person of the President alone.

Before President Johnson, the largest number of bills vetoed by any one President was twelve, by President Jackson. Disagreement with Congress on the *reconstruction* policy accounts for President Johnson's twenty-one vetoes. Some of the bills to which he refused assent were important and were afterward passed over his veto. President Grant vetoed forty-three bills, one of which (the so-called "inflation bill") was of great consequence. President Cleveland vetoed three hundred and one bills in his first administration, the total number of vetoes in our history before that time having been but one hundred and thirty-two. This is largely accounted for by President Cleveland's refusal to sign certain private pension bills, of which a great number are passed by every Congress.*

Vetoes by
various
Presidents.

The President may cause a bill to fail by neither signing nor vetoing it during the last ten days of a session. The term "pocket veto" has been applied to this method of defeating legislation.

The
"pocket
veto."

Lest Congress should seek to evade the necessity of submitting its acts to the President, the following clause of the Constitution prohibits the enactment of legislation under any other title than that of a bill.

Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment), shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of

Section 7,
clause 3.

* For Johnson's vetoes, see American History, 422, 423; Grant's, *ibid.*, 445; Cleveland's, *ibid.*, 465-466.

the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Unifying
forces in
the House.

Because the House represents the people more directly than does the Senate, and because it is, generally speaking, the more interesting body to observe, we shall now look farther into its workings to discover how its action is really controlled. When one considers the immense mass of business laid before the House and the more than fifty committees that work independently of one another, each member and each committee endeavoring to secure the passage of particular bills, it seems a wonder that any unity of purpose or harmony in legislation can be attained. But forces are at work beneath the surface to bring order out of the apparent chaos.

The power
of the
majority.

The first of these forces is the power of the majority. Party caucuses and conferences—that is, meetings of the Representatives belonging to one party—are of frequent occurrence, especially if the majority is small and it becomes necessary to present a united front to the opposition. Those who attend and participate in a caucus are expected to abide by the decision of the majority as to the measures that must be passed or rejected in Congress. But no such rule binds members who attend a party conference. In this way a more or less consistent policy may be carried out. The power of the majority may also be seen at work in the committees. The majority of a committee sometimes frames a bill without consultation with the minority members. The latter are called in when the measure is complete, and their views are given a hearing, but they really have no voice in the matter. They may, however, present a minority report to the House.

A second force tending to unify the action of the House is the authority given to the Committee on Rules. This committee is composed (since March, 1910) of ten members, six being of the majority and four of the minority

party. They are elected, and the Speaker cannot be a member.

It will be remembered that with certain exceptions (see p. 149) bills are not considered in their order on the calendars. Otherwise, this committee decides which bills shall be taken up, what length of time shall be given to each, and when each shall come to a vote. It thus makes a sort of program for the House and so decides the fate of a great many bills. Of course the Committee on Rules must be sustained by a majority of the House; but the House generally looks to this committee for leadership.

Committee
of Rules.

A third force tending to unify the action of the House is the power of the Speaker. Since the Speaker represents the majority, he is dependent upon it for the exercise of his power. But once elected, this officer is regarded as the leader of the majority and his influence is very great in determining party policy. The Speaker's power is exerted in several ways:

The power
of the
Speaker.

(1) When the minority foresee that they will be beaten on an important question they sometimes resort to *filibustering* or *obstructive tactics*. They endeavor to delay action in the hope that the majority will be driven by sheer exhaustion to compromise. They accordingly consume time by making long speeches. But since the Committee on Rules (sustained by a majority of the House) may fix the time for a vote, this method of filibustering is not always effective. Again, the minority may attempt to delay action by making *dilatory motions* (such as a motion to adjourn) and then calling for the *yeas* and *nays*. Since each roll-call occupies half an hour or more, this method has sometimes in the past been very successful. But in recent years the Speaker has been given authority to decide when, in his opinion, such motions are intentionally dilatory, and to refuse to entertain them. At such times, therefore, the Speaker sets aside the ordinary rules of

Filibus-
tering.

parliamentary practice and governs the House arbitrarily; but it must be remembered that he is executing the will of the majority.

Counting a
quorum.

Speaker Reed used an effective method to stop filibustering in the 51st Congress, when the Republican majority was very small. In order to prevent the passage of bills, members of the minority would refuse to vote when the roll was called. As it was often impossible to secure the attendance of all members of the party in power, the roll-call would show less than a majority "present." Hence business would be stopped under the point of order "no quorum." At such a juncture, Speaker Reed directed the clerk to count as present members sitting in their seats who had not voted. Thus a quorum was secured and bills were passed. The Supreme Court has pronounced this procedure legal, and subsequent Congresses have followed the practice.

Recogni-
tion.

(2) Much of the power given to the Speaker would be useless but for the power of *recognition*. As in other assemblies, before any one can speak he must be recognized by the chair. The Speaker may recognize whom he pleases, not necessarily the one who first addresses him, except on "Calendar Wednesday," and when bills are called up from the Unanimous Consent Calendar, and in the case of bills taken out of the hands of a committee. Consequently, at other times if a member wishes to push his bill through the House, it is necessary to consult the Speaker and obtain his consent. He will then be recognized at the time agreed upon. By a similar arrangement other members will secure the right to debate the bill.

Until the long session of the 61st Congress (March, 1910), the Speaker's power also included that of appointing all committees, including the Committee on Rules, and he was chairman of that committee. These facts gave him almost dictatorial power over the bills that should come up for discussion and over their fate as well. This power as exercised by Speaker Cannon resulted in a revolt in which a number of Republican members (known as "insurgents") joined with the Democratic Representatives to

outvote the "regular" Republicans, and thus secured amendments to the Rules. The constitution of the Committee on Rules was changed (see above) and the Speaker was made ineligible for a position upon it.

It was claimed that these changes were necessary to take the control of the House out of the hands of a small body of men. On the other hand, the previous arrangement was regarded by some as essential to prevent filibustering and to expedite business.

Procedure in the Senate differs from that in the House in three important respects. (1) The presiding officer, whether he be the Vice-President or the President *pro tempore*, has less power than the Speaker. He is more impartial in his recognition of both sides, therefore filibustering is easier in the Senate than in the House.

Comparison of Senate and House procedure.

(2) There is less restriction on the freedom of debate in the Senate; consequently important measures are passed less promptly than in the House. In fact, there is no means by which debate can be closed in the Senate.

(3) The Senate has a higher standard of decorum than that which prevails in the House. Senators are expected to heed carefully one another's rights and wishes, and to avoid extreme exhibitions of party spirit. The Senate is, therefore, a more quiet and orderly body than the House; in it angry debate and violent behavior are of rare occurrence. In its methods of procedure the Senate is more deliberative and less business-like than the House.

In State legislatures throughout the Union the method of procedure is substantially the same as that which we have seen at work in Congress. But this system, sometimes called the "Committee system," is found nowhere else. Every national legislative body in the world except our Congress works under the "Cabinet system" of government. This may be best seen in the English Government, where it was first developed.

Cabinet system of government.

The supreme legislature of England is Parliament, composed of the House of Commons and the House of Lords. Although England is nominally a kingdom, the monarch has little real

The English Cabinet system.

authority. The actual executive is the *Cabinet*; at its head is the Prime Minister, who corresponds in many ways to our President. In England the legislative and executive departments are united; for the members of the Cabinet must be members of Parliament, and the Prime Minister is always the leader of the political party that has a majority in the House of Commons. Nominally the monarch chooses the Prime Minister, but in reality he has no choice. The members of the Cabinet, numbering fifteen or twenty, are executive officers. Each presides over a department and controls the administration of its affairs as Cabinet officers do in the United States. At the same time, it is the duty of Cabinet ministers to participate in the legislation of Parliament: (1) by framing and introducing all important bills, and (2) by pushing these bills through Parliament by debate and otherwise.

The Prime Minister "leads" the majority party in the House of Commons; or, if he is a member of the Lords, another Cabinet member is leader of the Commons. The opposition party likewise has its leader in each house. The "Opposition" tries to hamper or defeat the measures of the Government.

The length of a Congress in the United States is fixed at two years. A term of Parliament may last seven years, but Parliament may be dissolved and a term ended at any time. The way in which this comes about is the most essential feature of Cabinet government. The Cabinet, we have seen, is put into office by the majority in the House of Commons, and it will retain its position as long as it is sustained by that majority. If, however, its policy proves to be unpopular, or its administration weak, some of its former friends will withdraw their support. There may then be passed a vote of "lack of confidence"; or, more usually, the Cabinet fails to pass an important bill because it no longer commands sufficient votes in the House of Commons. In either case the Cabinet resigns, Parliament is dissolved, and a general election is held at which the people elect new members of the House of Commons. In this new house, the party that has just been retired from power may be restored if the people sustain its policy; if they do not, the opposite party will have a majority in the House of Commons and its leader will become Prime Minister.

Dissolution
of Parlia-
ment.

Responsi-
bility.

Certain advantages are claimed for this system over the Congressional or Committee system. (1) It is said that the party in power is more directly responsible to the people because its

tenure of office is not fixed, but liable to termination at any time. "Government," as the governing officials are called, will therefore watch public opinion very closely and try to avoid all unpopular measures. Moreover, the people watch the ministry closely because they may be called upon at any time to approve or condemn its policy by electing a new House of Commons. For the Congressional system it is claimed that these same advantages are secured by the frequency of our elections. The hope of re-election creates responsibility.

(2) Under the Cabinet system the harmony of the legislative and executive departments is certain. The House of Lords may not agree with the Commons, but its power is very much less than the power of the Senate in the United States. The Lords may delay, but they will never defeat an important bill which the Commons, backed by the people, are determined shall pass.* In the United States the President may not be of the same party as the majority of Congress; or, being of the same party, he may have very different views. There will consequently be friction and a failure to harmonize the action of these two departments. On the other hand, it is urged that a Cabinet is undertaking too much when it assumes both legislative and executive functions. Attention is also called to the fact that our legislative and executive are not completely separated. Certain functions are shared between them. Moreover, it is quite customary for Congressmen and committees to consult heads of departments and other officials while framing bills.

Harmony.

(3) In Parliament, the leadership of certain men is more clearly recognized and more consistently followed than in Congress. Consequently, the measures by which a party carries out its policy have a certain unity of purpose and harmony among themselves. The Committee system, English writers say, discourages leadership, by the division of responsibility for legislation; it makes possible poorly constructed and inconsistent laws which do not pretend to be parts of a deliberate governmental policy. Defenders of the Committee system point to the unifying influence of the party caucus and to the work of conference

Leadership.

* The rejection by the Lords of the Commons' budget bill (for raising revenue), in 1910, was followed by the proposal to remove the power of the upper house to veto bills. This veto may also be prevented by the action of the King in appointing (upon the advice of the ministry) such a number of new peers, with the right to sit in the House of Lords, as will outvote the opponents of any measure in that house.

committees in harmonizing differences between the houses. Moreover, it is claimed that the Speakership furnishes a sufficient element of leadership and that more is not desirable.

SUPPLEMENTARY QUESTIONS AND REFERENCES

1. From the Congressional Record one may learn the forms used by members of Congress in addressing the chair and each other; also the forms of response used by the Speaker and the President of the Senate.

2. In the Congressional Directory will be found lists of the standing committees of each house, as well as select and joint committees; diagrams of the city of Washington, the Capitol building, and the floors of the houses showing the seats occupied by the members; also biographical sketches of Senators and Representatives.

3. What difference is there in the granting of recognition to members in the Senate and House? Harrison, *This Country of Ours*, 45-48.

4. One way of accounting for the large number of bills introduced into Congress is discussed in Bryce, I, 136-138.

5. What appearance does the House of Representatives make when at work? Bryce, I, 142-148.

6. What are the relations of the two houses of Congress? Bryce, I, chapter 18.

7. The veto power. Bryce, I, 58-61; Cooley, *Principles of Constitutional Law*, 49, 166-169.

8. How are obstructive tactics carried on? Alton, *Among the Law Makers*, chapter 20.

9. Why is there little debate in the House of Representatives? Wilson, *Congressional Government*, 72-73, 86-102.

10. Compare the Speaker of the House of Representatives with the Speaker of the House of Commons. Bryce, I, 138-141.

11. The best descriptions of Congressional procedure are found in Bryce, I, chapters 10-16; Wilson, *Congressional Government*, chapters 1, 2, 4; Follett, *The Speaker*; McConachie, *Congressional Committees*; Beard, *American Government and Politics*, chapter 14; *Making laws at Washington*, *Cen. Mag.*,

42 : 169-187; Senate procedure, *World's Work*, 11 : 7060-7065; 7206-7211.

12. On the powers of the Speaker, see *Forum*, 41 : 344-350; *N. Am. Rev.*, 188 : 495-503; 189 : 233-241; *Rev. of R's*, 39 : 465-474; *Cen. Mag.*, 56 : 306-312; Hart, *Essays on American Government*, chapter 1, *The Speaker as Premier*.

13. The revolt of the Insurgents and the revision of the Rules. *Outlook*, 94 : 635-640; 750-754; *Rev. of R's*, 41 : 396-399; *N. Am. Rev.*, 191 : 510-515.

14. The English Cabinet system is best treated in Bagehot, *The English Constitution*; Wilson, *The State*; Moran, *The English Government*.

15. For comparisons of the Cabinet and Committee systems consult Bagehot, 84-100; Bryce, I, 147-153, 154-156, 168-173, 286-297; Wilson, *Congressional Government*, 72-73, 86-102, 115-124, 318-324; Fiske, *the Critical Period of American History*, 289-300.

CHAPTER XVII

NATIONAL FINANCES

Finances of
the Confed-
eration.

NOTHING revealed more completely the fatal weakness of the government under the Articles of Confederation than its failure to exercise effectively the power of taxation.* While the Articles provided that the expenses of the general government should be paid out of a common treasury "which shall be supplied by the several States," the taxes were to be "laid and levied by the authority and direction of the legislatures of the several States." In practice, each State contributed as much or as little as it pleased. The general government made "requisitions" upon the States for certain amounts, but it had no means of compelling the legislatures to raise their quotas. The failure of the efforts that were made to amend the Articles so as to give Congress power to levy import duties, marks the complete break-down of the government's finances. There was needed a system under which the National authority might be exerted directly upon the individual citizens, without the intervention of State authority. This was secured by the following clause of the Constitution.

Article I,
section 8,
clause 1.

The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States.

* See American History, 184, 193-194.

Coupled with this grant of power was a prohibition:

No tax or duty shall be laid on articles exported from any State. Section 9,
clause 5.

The forms of taxation most employed by the National government are known as duties* and excises. The duties which Congress is empowered to levy are taxes on goods imported into the country. The collection of duties takes place at custom-houses situated at the "ports of entry." There are more than one hundred and fifty ports of entry distributed throughout the United States; the greater part, though not all, are seaport cities. Each custom house is in charge of a collector. Duties are of two kinds, specific and *ad valorem*. Specific duties are fixed amounts levied on certain units of measurement of commodities, as the pound, yard, or gallon. For example, under the tariff law of 1909 the duty on tin plate was one and two-tenths cents for each pound. *Ad valorem* duties are levied at a certain rate per cent. on the value of the articles taxed. The law of 1909 laid a duty of 60 per cent. on lace manufactures. On some articles both kinds of duties are collected; under the law just mentioned, the duties on carpets and rugs were 10 cents per square foot and 40 per cent. *ad valorem* in addition. Kinds of
duties.

At New York, where by far the largest part of our importations are entered, two thousand officers and clerks are employed in the custom house. The method of collecting duties may be briefly described. When goods are purchased in a foreign country, an invoice of them, stating descriptions and prices, is filed with the United States consul† in the district where the purchase is made. The consul sends a copy of the invoice to the officials of the custom house at the port of entry to which the goods are shipped. Upon their arrival in the United States, the cases are opened and the goods are examined to see that they

The
collection
of duties.

* "The terms duties and imposts are nearly synonymous."—Cooley, *Principles of Constitutional Law*, 54.

† See page 247.

correspond in amount and prices to the invoice record. If, in the judgment of the custom house appraisers, the goods are valued too low, the valuation will be raised. In case of great undervaluation, a fine is imposed, and in extreme cases the goods are confiscated.

Goods in
bond.

If an importer does not wish to sell his goods immediately, they may be stored in a "bonded warehouse" which is under the supervision of Government officials. The owner agrees, under bond, to withdraw the goods and pay the duties (or else to export the goods) within three years. By a similar arrangement, goods may be shipped "in bond" from a port of entry to a "port of delivery."

Smuggling.

Passengers on steamships coming from foreign countries are required to declare what dutiable goods they have among their baggage. Upon landing, their baggage is examined; trunks and valises are opened, and in suspected cases the persons of travellers are searched for concealed dutiable goods. The temptation to undervaluation and to smuggling, in order to escape this form of taxation, is so great that constant vigilance is necessary at custom houses and along the borders of the United States to prevent these frauds. Special agents and revenue cutters are employed to detect violations of the law.

Tariff laws

A schedule of rates of duties is called a tariff. It is evident that the importer adds the amount paid as a duty to the price of an imported article when he sells it. If a higher price is caused in this way,* this may deter importation and encourage the production of such articles in this country. Consequently, high rates of duties may have a decided influence upon the industries of a country. When tariff rates are fixed without reference to the way in which they may affect industries, we have a "tariff for revenue"; the sole object in view is the raising of a certain amount of revenue. In a "protective tariff" law, on the other hand, the rates are fixed with the purpose of encouraging certain industries; they are made so high that it will be less profitable to import the

* It may happen that the foreign producer will lower his prices sufficiently to counterbalance the effect of the duty in this country.

articles. The question, Which tariff policy is the wiser? has been one of the leading issues in National politics during the greater part of our history.

The United States has entered into "reciprocity treaties" with various countries for securing the reduction of tariff rates. Each country agrees to admit certain products of the other country at reduced rates, or free of duty. These are commodities in the production of which there is little or no competition between the parties to the treaty.

Reciprocity.

The tariff law of 1909 provided for a tariff board of three members, who will investigate the facts as to production and prices, both here and abroad, upon which our tariff laws should be based. (Compare the Tariff Commission of 1883, American History, 467-468.)

The Payne-Aldrich tariff law, 1909.

This is a step in the direction of placing the work of tariff making upon a scientific basis, rather than leaving the determination of rates to influences that may be brought to bear upon members of Congress by particular industrial interests, which naturally wish rates favorable to themselves. This law also incorporated the maximum and minimum principle. That is, the rates fixed were minimum; but whenever the President shall determine that any other country has so adjusted its tariff rates that they unjustly discriminate against our products, then he may order an increase of twenty-five per cent. upon these rates, to apply to certain imports from that country. Free trade with the Philippine Islands was enacted, though the amounts of sugar and tobacco that can be imported free were limited. There was established a Customs Court, for the consideration of disputed questions of classification and rates, hitherto decided by customs officers and the regular courts.

Excises are taxes levied on the manufacture and sale of commodities. It is customary to speak of the proceeds of these taxes as "internal revenue." Liquors and tobacco are the most common objects of excise taxation.* Besides

The internal-revenue system.

* Taxes are levied not only upon the liquors themselves but upon the business of brewing and rectifying; of selling by wholesale and by retail; of manufacturing stills; and upon the stills themselves. A list of these taxes may be obtained from the collector of any internal-revenue district.

these, the National government taxes snuff, opium, oleo-margarine, filled cheese, mixed flour, and playing cards.

The taxes
of 1898.

Upon the outbreak of the Spanish-American War (1898), additional taxation became necessary. The liquor and tobacco taxes were increased and new taxes were levied upon bankers and brokers, billiard rooms, and legacies, and upon proprietary articles and legal documents.* Under this law, the internal-revenue receipts increased from \$170,000,000 in 1898 to \$273,000,000 in 1899. These taxes were repealed by Congress in 1901-2. An inheritance tax levied in connection with those just mentioned was also repealed later.

Collection
of excise
taxes.

The collection of excise taxes is supervised by the Commissioner of Internal Revenue, who is the head of a bureau in the Treasury Department. There are more than sixty revenue districts in the United States, with a collector at the chief official in each. This officer is responsible for the proper enforcement of the laws in his district; special agents are employed by the bureau to examine into suspected cases of fraud.† The greater number of these taxes are paid by the purchase of stamps which must be affixed, in the proper denominations, to the articles taxed. When a license fee is required for carrying on an occupation, the purchase and display of a certificate secures the enforcement of the law. Distilleries are under the supervision of government "store-keepers," who inspect and record each step in the manufacture of spirits. A gauger measures the contents of each package and affixes the stamps.

The first internal-revenue law, that of 1791, taxing the production of distilled spirits, was a part of Hamilton's financial policy. In western Pennsylvania it caused violent opposition, known as the Whiskey Rebellion.‡

Corpora-
tion tax.

In 1909 Congress enacted a law levying a tax of one per cent. upon the net income above \$5,000 of all corporations, joint stock companies, and associations. This is known as the corporation tax law. The power of Congress to levy this tax was questioned, but the Supreme Court upheld its constitutionality.

* The documentary taxes are similar to those imposed by Parliament in the Stamp Act of 1765. They were also levied by our government during the Civil War. See American History, 145, 388-389.

† "Moonshiners" who run illicit stills are numerous in the remote mountainous districts of the Southern States.

‡ American History, 220, 231.

It is customary to classify taxes as *direct* and *indirect*. A duty, for instance, is considered an indirect tax, because the importer who pays it adds the amount to the price of the commodity upon which it is levied. The same is true of most articles upon which excise taxes are paid. The consumer pays the tax, in reality, but he pays it indirectly to the government.

Direct and indirect taxes.

Now, the rule prescribed in the Constitution for levying the kinds of taxes so far discussed is a part of the clause quoted above (p. 162): "but all duties, imposts, and excises shall be uniform throughout the United States." The justice of this rule is evident. The rates must not vary at the different ports of entry or in the various collection districts of the country. The Constitution does not use the term "indirect taxes," but it does speak of direct taxes, as follows:

How each kind must be levied.

Representatives and direct taxes shall be apportioned among the several States . . . according to their respective numbers. . . .

Article 1, section 2, clause 3.

No capitation, or other direct, tax shall be laid unless in proportion to the census or enumeration hereinbefore directed to be taken.

Section 9, clause 4.

Early in our history, the question arose, What is a direct tax? The Supreme Court decided this (1796) by naming only two kinds of taxes as direct, under the Constitution: *i. e.*, poll or capitation taxes (those assessed upon individuals) and taxes on land. Only these two taxes, then, were to be apportioned among the States, when levied. All others were to be uniform. This decision was followed for one hundred years.

Direct taxes.

In 1798 Congress levied a direct tax of two million dollars and apportioned it among the States in proportion to their population. The objects taxed were houses, land, and slaves, and the collection was made by Federal officers. Similar laws were enacted in 1815 and 1861.

It is not likely that another direct tax will be levied and apportioned among the States according to population. This is because differences in population among the States do not correspond to differences in wealth (*i. e.*, ability to pay the tax). The more populous States are also the more wealthy, but the *per capita* wealth is much greater there than in those States where population is less dense. Consequently, in the agricultural States of the South and West, the burden of taxation would be unjustly heavy.

Income
taxes.

The position of income-tax laws levied by Congress is peculiar. Under the decision of 1796, just referred to, they were not included among the direct taxes. Consequently, when Congress levied such taxes during the Civil War, the rates were made uniform throughout the United States.*

Law of
1894
declared
unconstitu-
tional.

Following these precedents, Congress enacted, in 1894, an income-tax law providing that all incomes over \$4,000 should pay a tax of 2 per cent. on the excess above that amount. The following year, contrary to all former decisions in which the meaning of the words "direct tax" had been determined, that term was declared by the Supreme Court to include such income taxes as were levied by the law of 1894. Consequently, since Congress had not determined the total amount to be collected and apportioned it among the States according to their population, this law was declared unconstitutional.

The
income-tax
amend-
ment.

Agitation for an income-tax law has grown stronger in recent years, and as a result an amendment to the Constitution was adopted by Congress (1909) and submitted to the States for ratification. This is the first amendment that has been sub-

* In each of the several laws enacting these taxes, provision was made for the exemption from taxation of a small income, as \$800 at first, and later, \$600. For incomes above these figures, the rates were generally made progressive; for example, the law of 1862 taxed incomes above \$600 and less than \$5,000 at the rate of 5 per cent., those from \$5,000 to \$10,000, 7½ per cent., and those above \$10,000, 10 per cent. These taxes were repealed after 1872. See American History, 387.

mitted to the States since the adoption of the Fifteenth Amendment. It reads as follows:

Article XVI. That Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

We have now reviewed the various forms of taxation employed by the National government to secure revenue. In the enactment of laws that impose taxes, Congress is governed by the Constitutional provision that

All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

Article I,
section 7,
clause 1.

The framing of revenue bills is intrusted to the most important House committee, that on Ways and Means. Their bills are frequently known by the name of the chairman of the committee. In the Senate the Finance Committee considers and recommends amendments to bills for raising revenue. These important measures, as finally passed, are in most cases the result of compromises between the Senate and the House, arranged by conference committees.

Revenue
bills in
Congress.

We have seen that the collection of National taxes is accomplished by an army of Federal officials whose jurisdiction extends into every corner of the country. We have seen that the objects of taxation are very numerous, so that every individual aids, directly or indirectly, in the support of the National government. The ease with which our immense revenue is raised seems marvellous to citizens of the Old World countries, where conditions of life are harder. Indeed, so great have been the ability and the willingness of the people to bear these burdens that the National government has more than once been embarrassed by an excess of revenue. Under these conditions it is not surprising that laxity in making expenditures has

been common and that great extravagance and wastefulness have frequently resulted.

National
expendi-
tures.

In Congress, appropriation bills, that is, bills providing for the expenditure of public money, may originate in either house; but the important general appropriation bills originate in the House of Representatives. These bills are really framed by the committees to which they are referred, and are based upon estimates furnished by the various executive departments. For this reason there is some adjustment possible between the financial needs of the government and the amount of taxes levied. But still, the independence of the legislative (or tax creating) and executive (or tax spending) departments of our government makes the fitting of revenue to expenditures a difficult matter, and in practice many errors are committed.

Unbusiness-like
methods of
appropriating
money.

One of the greatest evils in connection with Congressional legislation is found in the immense number of bills providing appropriations for private and local purposes. Thousands of private pension bills passed annually, almost without consideration, represent claims which the Pension Bureau has rejected for good reasons. Appropriations amounting to many millions are made annually for the erection of public buildings and for river and harbor improvements that are entirely unnecessary and that benefit only the local community where the work takes place. This ill-spent public money is called "pork," and every Congressman is under constant pressure to obtain as much as possible for his district. Many persons judge of a Congressman's efficiency by his ability to obtain large appropriations, regardless of their necessity. This condition reveals a fundamentally wrong attitude toward the government. Congress should refuse to pass such items in appropriation bills, except upon the approval of boards composed of disinterested experts.

The
public debt

When the ordinary revenues of a government are not sufficient to pay its expenses, recourse must be had to additional taxation, or to borrowing, or to both of these measures at once. The borrowing of money is not es-

entially different from the levying of taxes, since it but postpones the time when, by taxation, the obligation must be met. This procedure is justifiable because the burden of National expense for certain purposes (as for defence) may well rest upon more than one generation of citizens. Accordingly, among its other financial powers, Congress possesses authority

To borrow money on the credit of the United States.

Section 8,
clause 2.

Money is borrowed, ordinarily, by the sale of bonds. These are the same nature as the promissory notes by which individuals obtain loans. National bonds state the promise of the United States to pay a certain amount, at a stated time, with interest. A "registered" bond contains the name of the owner, and this is a matter of record at the Treasury Department. When this bond is transferred, the record must be changed. "Coupon" bonds are usually payable to bearer; they have attached to them a number of coupons equal to the number of interest payments due during the term of the bond.

National
bonds.

United States bonds have been issued in various denominations, ranging from twenty dollars to fifty thousand dollars each. The term of a bond is not always a fixed number of years. Some of the Civil War bonds were payable at the option of the government after five but within twenty years from the date of issue. These were called "five-twenty's" (5/20's). The bonds issued in 1898, to obtain money for the Spanish War expenses, were "ten-twenty's."

Kinds of
bonds.

After being issued, National bonds are either held by individuals and corporations as investments, or they become the objects of trade and speculation, being bought and sold by bankers and brokers on the stock market. Their values fluctuate somewhat and are subject to daily quotation. If a bond sells for its face value it is at "par." Bonds quoted at 117 are at a "premium"; that is, they bring \$117 for every \$100 of their face value. Those quoted at 98 are at a "discount." When bonds fall due, the government "redeems" them at their face value. Or, they may be continued at a lower rate of interest.

Redemp-
tion.

Refunding
operations.

A large amount of five per cent. bonds that were due in 1881 were continued, by agreement, at three and one-half per cent., and some that fell due in 1891 were continued at two per cent. Provision is made by law for the purchase of bonds by the government before they are due. For this purpose, the Secretary of the Treasury is authorized to use a portion of the National revenues; this is called a "sinking fund." There is still another way in which the burden of our National debt has been decreased. Soon after the time when the 5/20 Civil War bonds became payable at the option of the government, the holders were given the privilege of choosing whether their bonds should be redeemed, or be exchanged for new ones, of the same amounts, at lower rates of interest. The latter alternative was accepted for many hundreds of millions of our bonds; so the burden of interest was reduced from six per cent. to five, four and one-half, and later to four per cent. This operation was called *refunding* the debt.*

SUPPLEMENTARY QUESTIONS AND REFERENCES

1. For the history of various tariff laws and their provisions, see American History as follows: Law of 1789, 215-216; 1816, 271-272; 1824, 289; 1828, 293; 1832, 307; 1833, 308; 1846, 328; 1857, 357; 1861, 387, 389; 1864, 400-401; 1872, 440-441; 1883, 467-468; 1890, 470; 1894, 493; 1897, 494.

2. The rates of the tariff law now in force are stated in newspaper almanacs. Is this tariff high, low, or moderate in its rates?

3. In the Statistical Abstract will be found the list of items upon which duties and internal-revenue taxes were collected, with the amount yielded by each, for a series of years.

4. How are internal-revenue stamps cancelled?

5. *a.* What is a deficiency bill? Harrison, This Country of Ours, 58.

b. What are riders to appropriation bills? Harrison, 131-132.

6. Statistics answering the following questions may be found in the Annual Reports of the Secretary of the Treasury (Finance

* For accounts of the issuance and refunding of Civil War bonds, see American History, 386, 387, 388, 442-443.

Reports); Statistical Abstracts; Abridgments of the President's Message and Documents; Monthly Summaries of Commerce and Finance issued by the Bureau of Statistics, Treasury Department; newspaper almanacs and year-books.

(a) What were the revenues of the last fiscal year? The expenditures? The chief items under each head? Do you think that any of the expenditures were extravagant?

(b) Make a table representing revenues and expenditures for a series of years. How do you account for fluctuations?

(c) Estimate the per capita revenues and expenses for different years.

(d) What is the present bonded debt of the United States? (See also the Public Debt Statement issued monthly by the Treasury Department.) Make a chart showing the fluctuations of the public debt since the foundation of the government.

7. Find in daily papers quotations of the current prices of National bonds. How do you account for differences in their prices? How do the prices of these bonds indicate the Nation's credit? The actual rates of interest that bonds yield may be calculated by the use of "bond-value tables." A set of these tables, accompanied by an explanation, is found in Clow, Introduction to the Study of Commerce, Appendix IV.

8. For facts concerning the National "pork barrel," see *World's Work*, 20 : 13259-13276. For ex-President Roosevelt's opinion, see *Outlook*, 95 : 759-763.

9. The revenue cutter service. *World's Work*, 16 : 10591-10597.

10. The tariff act of 1909. *Outlook*, 92 : 872-876; *Rev. of R's*, 40 : 341-347.

11. What is a "tariff joker"? *Outlook*, 92 : 625-626.

12. The corporation tax law. *Rev. of R's*, 40 : 348-349; *Forum*, 43 : 256-262; *Outlook*, 92 : 587-588.

13. Should incomes be taxed? *Forum*, 41 : 513-520; *Outlook*, 85 : 503-508; 94 : 215-219.

14. Hide-and-seek with the customs. *Cen. Mag.*, 45 : 466-473; *Outlook*, 88 : 823-829.

15. The government as a spender. *Rev. of R's*, 38 : 67-71.

CHAPTER XVIII

THE POWER OF CONGRESS OVER COMMERCE

IN the conventions that assembled at Alexandria in 1785 and at Annapolis in 1786, commerce was the most important subject discussed. Indeed, it was the necessity for a better method of regulating commerce that brought about these meetings. This problem was one of the difficult questions before the Constitutional Convention, and its solution was reached only by compromise.* The clause embodied in the Constitution was a victory for the advocates of an efficient National government, for Congress was given power

Article I,
section 8,
clause 3.

To regulate commerce with foreign nations, and among the several States, and with the Indian tribes.

In the exercise of this power, Congress was made subject to two limitations.

Section 9,
clause 5.

No tax or duty shall be laid on articles exported from any State.

Section 9,
clause 6.

No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to, or from, one State be obliged to enter, clear, or pay duties in another.

Foreign
commerce.

Acts of Congress regulating foreign commerce† may be grouped under several heads. (1) Congress has enacted measures for the protection of shipping, by the maintenance of light-houses, buoys, and life-saving stations.

* See American History, 197, 202.

† The exercise of this power was carried to its extreme limit in the embargo act of 1807 and the non-intercourse act of 1809. See American History, 253, 255.

(2) The navigation laws of the United States are also enacted under this provision of the Constitution. Regulations are prescribed under which vessels engaged in foreign commerce "enter" and "clear" ports.* Vessels that are "registered" in the United States are entitled to the protection of this government in any part of the world. No vessels are registered except those owned by citizens of the United States, and no foreign-built vessel can be registered.† The vessels of foreign countries may not engage in the coasting trade of this country. Tonnage duties are levied upon both foreign and American vessels.

Navigation laws.

Since the Civil War there has been a great decline in the number of American built ships engaged in foreign commerce. (For statistics and reasons, see American History, 354, 442.) These now carry only about 15 per cent. of our imports and exports. A demand has arisen for the repeal of some of the navigation acts mentioned above. The granting of *ship subsidies* is also proposed, and bills for this purpose have often been before Congress. A ship subsidy law would provide for the payment of money from the treasury to persons who maintained lines of American built ships in foreign commerce.

Ship subsidies.

(3) By virtue of its power over foreign commerce, Congress regulates immigration into the United States. Besides Chinese laborers, the following classes are excluded from the country: convicts, anarchists, insane persons, paupers and those liable to become paupers, polygamists, persons having contagious diseases, and laborers under contract or agreement to perform labor or service in the United States; there are excepted from the last class, persons engaged in the professions and skilled laborers

Immigration laws.

* See these terms in the dictionary; also "entry" and "clearance." Notice that clause 6, quoted above, forbids the requirement of these processes in interstate commerce.

† Congress made an exception to this rule when in 1892 it entered to our registry two foreign-built vessels, on consideration that the company owning them build two vessels of the same class in this country.

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employed in the establishment of new industries. An arrangement has been entered into between our government and that of Japan by which Japanese and Korean laborers are also refused admission to this country.

What is
interstate
commerce?

The second division of the power granted to Congress over commerce relates to that which is *interstate*. It must be remembered that the States still retain authority over the vast volume of business transacted entirely within their limits, which they regulate absolutely by their laws of trade and transportation. It is not easy to say, in every case, just where the limits of State and National authority lie. The United States Courts have decided that the State's power is complete over commerce that begins and ends within the State and does not materially affect the commerce that is interstate or foreign. If, however, a commodity that is an object of commerce starts in one State, destined for another, its control, throughout its course, lies within the power of Congress.

Commerce
by water.

Interstate commerce includes that which is carried on by water, as well as land traffic. So the coast trade between the States lies within the jurisdiction of Congress; also commerce upon navigable rivers. "Wherever a river forms a highway upon which commerce is conducted with foreign nations or between States, it must fall within the control of Congress." By its "river and harbor bills," Congress appropriates large amounts annually for the improvement of navigable rivers. (See p. 170.)

Various
interstate
commerce
acts.

The different "interstate commerce acts," beginning with that of 1887,* constitute a system of control established by the Federal government over persons and corporations engaged in interstate or foreign commerce; this includes the carrying of persons and property by either

* For the history of the evils in connection with transportation and the efforts of States to correct them, see American History, 455, 456; the law of 1887, *ibid.*, 466-467; the law of 1906, *ibid.*, 519.

rail or water. Pipe lines, telephone, telegraph, express, and sleeping-car companies are also brought under the same provisions. The administration of these laws is vested in an Interstate Commerce Commission consisting of seven members.

The important provisions of these laws may be summarized as follows: (1) All charges must be "just and reasonable." The commission has power to *fix maximum rates* after investigation of a complaint by either party to a dispute over rates. (2) Pooling agreements are prohibited. (3) It is unlawful to make discriminations by giving to any particular person, corporation, or locality, an unreasonable advantage over others. This includes the granting of passes to others than railroad employees. The granting of rebates, which are intended to conceal discriminations, is forbidden. (4) The "long and short haul" clause makes it unlawful for a common carrier to charge more for the transportation of passengers, or the same kind of freight, over a shorter than a longer distance; provided, however, that the transportation is "under substantially similar circumstances and conditions," over the same line, and in the same direction. (5) All rates must be published and posted where they can be consulted by any person. (6) Railroad companies cannot engage in other lines of business. (7) Companies engaged in interstate commerce must have a uniform system of accounting. (8) They must make reports to the Interstate Commerce Commission regularly.

Their provisions.

The Commission also receives complaints, hears testimony, and makes orders correcting abuses; or it may investigate conditions without previous complaint. It may suspend proposed increases of rates until their justice has been determined. Any person objecting to an order of the Commission may appeal to a new court known as the "Commerce Court," composed of five Circuit Court Justices.

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Other laws affecting railways oblige them to adopt uniform systems of safety equipment; also, require full reports to the Interstate Commerce Commission of all accidents.

Other
commerce
laws.

Under its commerce power, Congress has enacted the food and drugs act, or "pure food law." This requires the makers of prepared foods and drugs shipped in interstate commerce to register their products, and prohibits the use of harmful preservatives and other components in them. The inspection of meats in packing plants by Federal officers is another means by which commerce is controlled. It has been proposed that the government should restrict child labor by prohibiting the shipment in interstate and foreign commerce of articles in the manufacture of which children below certain ages are employed.

The construction of the Panama Canal by the United States may be regarded as one of the most important ways in which Congress has undertaken to control commerce. This is similar to the policy of making river and harbor improvements, for which many millions of dollars are appropriated annually. The question of internal improvements by national authority was debated early in our history; one result was the construction of the National, or Cumberland, Road.* The same problem is now being considered in connection with projects for a system of "deep waterways," especially in the Mississippi Valley.

The trust
question.

The concentration of industry within the last half century† has been accompanied by the growth of combinations known as *trusts*. The original object of such combinations was to secure economy in production, and to this extent they are beneficial; but when their control of an industry approaches monopoly, then the public may suffer from exorbitant rates and prices. So both the State and the National governments have attempted to

* See American History, 274, 277, 292.

† American History, 452-453, 472-473, 517-518.

keep alive competition in the industries where combinations exist. The anti-trust laws have been only partially successful.

Congress has authority over trusts only as they are engaged in interstate or foreign commerce. Hence the Anti-trust Law of 1890 makes illegal any combination in restraint of trade or commerce among the several States or with foreign nations. The enforcement of this law has given rise to many interesting cases.

The
Federal
Anti-trust
Law.

In connection with the Chicago strike of 1894,* the Supreme Court held that the Anti-trust Law forbade not only combinations of capital, but combinations of labor as well, if they were in restraint of interstate commerce. It has been decided that a trust engaged in the business of refining sugar did not fall within the scope of this law, since the manufacturing process in question did not constitute commerce. Again, an agreement among the railroad companies of the Trans-Missouri Freight Association to establish and maintain rates was considered a violation of the law of 1890, because this was a contract in restraint of interstate commerce (1897). Another decision, made in 1899, declared illegal a combination of iron pipe manufacturers who had made an agreement not to compete with each other; but their action was illegal only as to the sale of pipe in interstate business.

Important
decisions.

Another decision (1904) declared that it was illegal for two competing railroads (the Northern Pacific and Great Northern) to form a new corporation (the Northern Securities Company) for holding the shares of these companies, since the directors of the latter could so manage the business as to exclude competition. In 1911 the Standard Oil Company was declared by the Supreme Court to be an illegal combination, and its dissolution was ordered. The Bureau of Corporations in the Department of Commerce (see p. 256) has the special function of investigating the records of corporations engaged in interstate business, with a view to checking violations of the interstate commerce and anti-trust laws.

* See American History, 492-493.

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SUPPLEMENTARY QUESTIONS AND REFERENCES

1. Should there be further restriction of immigration? Forum, 24 : 552-558; N. Am. Rev., 188 : 360-371; Outlook, 84 : 607-615; 83 : 33-36; Indept., 60 : 261-264; Rev. of R's, 33 : 336-339.
2. The immigration law of 1907. Rev. of R's, 35 : 469-471; N. Am. Rev., 185 : 587-593.
3. Descriptions of immigrants at Ellis Island. Outlook, 87 : 899-911; 913-923; Cen. Mag., 43 : 674-682; 45 : 466-473.
4. Arguments for and against Chinese exclusion. Forum, 33 : 53-58; 59-67; Japanese exclusion, N. Am. Rev., 184 : 29-34.
5. Should ship subsidies be granted? Outlook, 84 : 815-817; 85 : 307-311; 88 : 815-816; 94 : 108-109; 124-130; Arena, 33 : 634-636; Indept., 53 : 10-15; 130-132; 185-188.
6. The question of railway regulation. Indept., 60 : 835-838; 62 : 599-603; 699-704; Arena, 34 : 146-150; 35 : 132-139; 36 : 622-626; Outlook, 86 : 482-485.
7. The National control of trusts. Indept., 53 : 929-930; 1001-1004; 54 : 2927-2930; 58 : 303-306; 57 : 618-620; Outlook, 88 : 816-817; 93 : 761-763; Rev. of R's, 34 : 345-346.
8. The protection of life on railways. Rev. of R's, 35 : 456-468.
9. Improvement of waterways. Rev. of R's, 41 : 87-88; World's Work, 13 : 8576-8584; 15 : 10121-10127; Outlook, 94 : 17-20.
10. The National pure food law. N. Am. Rev., 184 : 848-852; Outlook, 88 : 260-264.
11. Should Congress control child labor? Outlook, 85 : 360-364.
12. Panama Canal and the government of the canal zone. World's Work, 16 : 10656-10657; Outlook, 91 : 906-909; 83 : 434-445.

CHAPTER XIX

MONEY OF THE UNITED STATES

I. METAL MONEY OR COIN

WHENEVER men trade or exchange commodities they find some form of money very convenient, if not really necessary. A variety of things have served as money among peoples in different stages of civilization. Gold and silver have become the chief money metals of civilized countries on account of their high value, and certain other characteristics. The function of coining money has been assumed by governments because in this way only can uniformity in the size and composition of coins be secured. The government stamp becomes a guarantee of the value of a coin when otherwise each might have to be weighed and tested before it could be accepted. Congress has been vested with the power:

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.

Article I,
section 8,
clause 5.

To provide for the punishment of counterfeiting the securities and current coin of the United States.

Clause 6.

The government coins money at its mints, which are located at Philadelphia (established in 1792), Denver, New Orleans, and San Francisco. Gold or silver ore must first be refined before it is sent to the mint as *bullion*. Here it is assayed to determine its purity. The pure metal is too soft for use as money, so an alloy of copper is added in the making of gold coins and silver dollars. In the "standard" metals thus produced the

The mints.

alloy is one-tenth of the whole; that is, the metal is nine-tenths (or .900) "fine."

Process of
coining.

In the process of minting, the standard metal is first rolled into strips of the thickness of the coin. From these strips round pieces are cut by heavy machinery. The weight of each piece is tested and when found accurate it goes to another machine, from which it comes with the edge slightly raised on both sides. This device decreases the wear on the faces of the coin. In the next operation, the disk of gold or silver is subjected to immense pressure between two engraved dies; in this way the proper inscriptions are stamped upon its faces. At the same time the edge of the coin is milled.

Below is a list of the coins now made at the mints of the United States.

	Gold.	Silver.
Coins of the United States.	Double eagle	One dollar
	Eagle	Half dollar
	Half eagle	Quarter dollar
	Quarter eagle	Dime
	Minor coins, the nickel and one cent piece.	

The ratio.

The "standard" coins of each kind are of course the gold dollar and the silver dollar. The weight of the pure metal in the gold dollar is fixed by law at 23.22 grains (Troy weight). In a silver dollar, the pure metal weighs 371.25 grains, or 15.988+ times as much as in the gold dollar. Hence we say that the ratio of our standard coins is 15.988+ to 1, or approximately 16 : 1. This is called the *mint ratio*. Since our coins are .9 fine, the total weights are 25.8 grains for the gold dollar and 412.5 for the silver dollar.

Free
coinage.

A government may pursue one of two distinct policies toward the coinage of a certain metal. (1) It may agree

to coin all the bullion of that metal that may be brought to the mints by individuals; this is *free* * *coinage*. (2) The government may limit the amount of bullion that will be coined; this may be called *limited coinage*. Under free coinage of any metal the government makes no effort to control the amount of bullion which will be coined; it coins "on private account" all the bullion brought to its mint. Under limited coinage a certain amount of the bullion is coined "on government account."

Since the first coinage act of our government (1792) there has been free coinage of gold. There was also free coinage of silver until 1873. Because during this time there was free coinage of both metals, and both gold and silver dollars were full legal tender, we had nominally, at least, *bimetallism* or a *double standard*. The law of 1873, by stopping the coinage of silver dollars, brought about the single gold standard. After 1878 there was limited silver coinage until the purchase of silver bullion was discontinued in 1893.

Bimetal-
lism.

The demand for the free coinage of silver that arose after 1873 † and lasted until about 1900, resulted in two important laws—the Bland-Allison act (1878) and the Sherman act (1890). Both authorized the coinage of silver dollars, but limited the amount to be coined. In 1893, on account of the panic of that year, Congress stopped the purchase of silver bullion by the Treasury Department for the coinage of silver dollars; and none has since then been purchased, except for the coinage of sub-

* The word *free* means *unlimited*. The definition of free coinage given above states its meaning as the phrase is commonly used. The following is a more accurate definition: Free coinage contemplates the coining of all the bullion brought to the mints, either gratuitously or with a deduction not to exceed the actual expenses of coinage.

† The causes at work in this connection, the various laws passed, and the political campaigns in which the silver question was prominent are discussed in American History, 457-459, 479, and 485.

subsidiary coins and Philippine money. A law of 1900 definitely established the single gold standard.

Subsidiary
silver.

The silver coins of denominations less than one dollar are called subsidiary coins. The silver half-dollar weighs only 192 grains and is therefore lighter proportionately than the silver dollar. The quarter and ten cent pieces are correspondingly reduced in weight. They are legal tender only in sums of ten dollars or less. The five cent piece (nickel) weighs 77.16 grains and is composed of 75 per cent. copper and 25 per cent. nickel. The one cent piece weighs 48 grains and is composed of 95 per cent. copper and 5 per cent. tin and zinc. These minor coins are legal tender in amounts of twenty-five cents or less.

Minor
coins.

II. PAPER MONEY

United
States
notes.

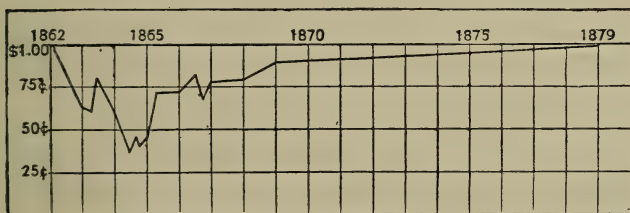
There are at present five kinds of paper money in circulation. They are United States notes, silver certificates, gold certificates, Treasury notes of 1890, and National bank notes. The United States notes were created in the early years of the Civil War as a means of paying the enormous expenses of the government.* Taxation is the ordinary method of providing funds for government expenses; but it is difficult to create a new system of taxation and some time is required to put it into operation. In the year 1862 the expenses of the government greatly exceeded its revenue. Great sums of money were being borrowed by the sale of bonds, but the bonds had depreciated in value. It was therefore determined that the government should print certain designs on pieces of paper, call these money, and compel people to accept them in payment of debts by declaring them legal tender; that is, all persons must accept them in payment of debts. These were the United States notes, sometimes called "legal tenders." A total of \$450,000,000 was authorized by Con-

* The history of these notes is stated fully in American History, 388, 443-444, 457.

gress. With this money the government paid the salaries of its officers and soldiers and purchased supplies that were necessary for carrying on the Civil War.

When a government refuses to pay its obligations in coin and pays instead only paper money containing promises to pay coin or specie, at some future time, it "suspends specie payments." If the paper money is issued in excessive amounts, it will depreciate in value, that is, a certain amount of it will be worth less than the same amount of coin. This is what happened when the United States notes were issued. The history of their depreciation until at one time they were worth only forty cents on a dollar is told by the accompanying chart:

VALUE IN GOLD OF ONE DOLLAR IN U. S. NOTES



Deprecia-
tion.

After much discussion Congress finally decided, by an act passed in January, 1875, that it would resume specie payments on the first day of 1879 by redeeming in gold all of the United States notes that might be presented for redemption. When this time arrived the amount had been reduced to \$346,681,016, and Congress had forbidden any further reduction. This is the amount at present outstanding. The resumption of specie payments necessitated the presence of gold in the Treasury with which to redeem the notes. Accordingly, the law of 1875 authorized the Secretary of the Treasury to obtain gold by selling bonds. Just before January 1, 1879, the notes once more passed at face value, and but few were presented for redemption. The amount outstanding was not decreased, for instead of cancelling those that were redeemed the

Resump-
tion of
specie
payments.

Secretary was obliged by law to *re-issue* them in making payments from the Treasury. This caused trouble in later years.

Constitutionality of legal tenders.

There can be little doubt that the framers of the Constitution never intended that Congress should have the right to declare anything but gold and silver legal tender. The Constitutionality of the laws that authorized the "legal tenders" was therefore one of the most important questions ever submitted to the Supreme Court. The final decision * was in favor of the right of Congress to exercise this power. The Constitutional basis of this right is implied by some from the power to levy and carry on war; by others from the power to borrow money; by still others from the power to coin money. The court rested its decision finally upon the ground that this power is "one of the powers, belonging to sovereignty in other civilized nations," and that as it is not expressly withheld by the Constitution, it is by necessary implication vested in Congress in connection with the powers over the currency expressly granted.†

Silver certificates.

Let us now notice two kinds of our paper money that are quite similar. When Congress, by the Bland act of 1878, authorized the coinage of silver dollars, it provided also for the silver certificates. Silver dollars are bulky and inconvenient to handle. Any holder of them may deposit them in the United States Treasury and receive in exchange silver certificates. The silver dollars remain in the Treasury.

Gold certificates.

Gold certificates are issued upon the same plan. These two kinds of paper money are therefore merely certificates of deposit. To redeem them the division of redemption of the Treasury Department holds specie in amounts exactly corresponding to the certificates outstanding.

* Rendered in 1884. *Julliard vs. Greenman*. 110 U. S., 421.

† Cooley, Principles of Constitutional Law, 83.

The Treasury notes of 1890 were issued in accordance with the Sherman act. (See p. 183.) They were given in payment for silver bullion; this was not coined at the time, but remained in the Treasury. Few of these notes are now outstanding.

Treasury
notes of
1890.

Four kinds of paper money have been described; there remains the fifth kind, National bank notes. National banks are under the control of a bureau in the Treasury Department, having for its head the Comptroller of the Currency. A National bank is organized in much the same way as other corporations, by any number of persons, not less than five.

National
bank
system.

Upon the basis of its capital stock the bank performs the ordinary banking functions; that is, it makes loans, discounts notes, buys and sells exchange. In addition to these functions National banks have another not at present exercised by other banks—they issue National bank notes for circulation as money of the United States. The entire business of these banks is conducted under regulations of the National law, and they are subject to inspection by National officers.

When a National bank is organized it must invest a sum of money equal to at least one-fourth of its capital in United States bonds. These may be purchased at any time from a broker. The bank must deposit them in the Treasury of the United States; but they are still the property of the bank and it receives the interest from them. The bank will then receive from the Comptroller of the Currency, National bank notes equal in amount to the par value of the bonds deposited. The president and the cashier of the bank sign each note, and they may then be loaned or paid out for any purpose in the ordinary course of business.

Deposit of
bonds.

A note of this kind reads: "The — National Bank of — will pay the bearer — Dollars on demand." How

Why the
notes are
secure.

can we be certain that this promise will be kept? The bonds deposited at Washington constitute the security for these notes. A National bank may fail; that is, its depositors may never receive back their money; but the holders of National bank notes will lose nothing so long as United States bonds are good security. For if the bank cannot redeem its notes in lawful money according to its promise, the Comptroller of the Currency will sell the bank's bonds and thus obtain money with which to redeem them. This is the reason why we never hesitate to receive one of these notes even though the responsible officials of the bank may be entirely unknown to us.

Emergency
currency.

Our monetary system is rightly criticised as inelastic; that is, the amount of money in circulation does not increase and decrease readily in response to the demand for money in business at different times. As a remedy for this defect, national banks may organize in groups and these associated banks may then issue additional notes under the supervision of the Comptroller of the Currency. The security for this "emergency currency," which is limited in amount, may be approved bonds and commercial paper.

A central
bank.

It has been proposed to establish a great "central bank" which would have as one of its functions the issuance of government paper money, regulating the supply in accordance with the demands of business. Twice in our history have such banks been in existence; from 1791 to 1811 and from 1816 to 1836; they are found in European countries to-day.

Standard
of weights
and
measures.

The clause by virtue of which Congress possesses power "to coin money" also gives it authority "to fix the standard of weights and measures." It was only during the last session of the 56th Congress, in 1901, that a law was enacted giving full effect to this grant of power. The only standard previously adopted by law was the English Troy pound; all other measurements of weight, distance,

and capacity were based upon standards fixed by European governments. Standard thermometers and measures based on the metric system came from France, while standards of electrical measurement were German. Millions of dollars were spent annually by manufacturers, scientists, and others in obtaining standardized instruments from abroad. A law of 1901 established a National Standardizing Bureau in the Treasury Department, and appropriated money for a laboratory at which the standards used in all the applied sciences will be kept.* A director, a physicist, a chemist, and their assistants will exercise the functions of the Bureau for the National, State, and municipal governments, for educational institutions, and for individuals engaged in pursuits requiring the use of standardized instruments.

SUPPLEMENTARY QUESTIONS AND REFERENCES

1. The national banking system is discussed in *American History*, 399-400; the Bank of the United States, 220-221, 272, 309-311.

2. What things have been used as money besides metals? What qualities of gold and silver have made them the common money metals? Ely, *Outlines of Economics*, 142-143; Laughlin, *Elements of Political Economy*, 69-72; Walker, *Political Economy*, 102-104; Encyclopedia articles on money and coinage.

3. Weigh a five dollar gold piece on a druggist's scales; weigh five silver dollars. What is the ratio of these weights?

4. Put a silver dollar in one side of a balance, and one dollar in subsidiary silver coins in the other. What is the result? Why? See an account of the monetary laws of 1853. (References in question 7.)

5. Balance an old coin against a new one of the same denomination. Is the former worth less than the latter? Coins become abraded and yet pass at face value except in international

* This bureau, in 1903, was transferred to the Department of Commerce and Labor.

trade. Coins shipped abroad are weighed to ascertain their true value.

6. On November 1, 1910, the total amount of money in circulation in the United States was \$3,180,084,499. The population was estimated at 90,844,000. Calculate the per capita circulation. How do these amounts compare with the *per capita* in other countries? See newspaper almanacs.

7. The following books contain accounts of our monetary history: Knox, United States Notes; White, Money and Banking; Noyes, Thirty Years of American Finance; Taussig, The Silver Situation in the United States; Andrews, An Honest Dollar; Bullock, Introduction to the Study of Economics; Laughlin, Political Economy; Report of the Secretary of the Treasury, in Abridgment of President's Message and Documents, 1895-96, 187-246. (A valuable account, containing several official reports.)

8. Statistics of coinage, value of silver, production of precious metals, etc., may be found in the Statistical Abstract; Finance Reports; Treasury Department Circulars, No. 123 and No. 143; Reports of the Secretary of the Treasury in Abridgment of the President's Message and Documents.

9. What a central bank would do. World's Work, 19: 12394-12397.

CHAPTER XX

OTHER GENERAL POWERS OF CONGRESS

I. POWER OF NATURALIZATION

NATURALIZATION is the process by which a foreigner becomes a citizen. The first section of the XIVth Amendment declares the following classes to be citizens: "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the States wherein they reside." This section was inserted in order to make certain the citizenship of the freedmen, so that their rights would be under protection of the National government.* The section has been interpreted to apply to "white persons and persons of African descent." An Act of Congress in 1882 expressly prohibits the naturalization of Chinamen. Naturalization has also been denied to natives of Japan and of Burmah. But the Supreme Court has decided that a child born in the United States of Chinese parents is a citizen.†

Who are
citizens?

Previous to the adoption of the Constitution, the individual States had the right to determine their own rules of naturalization. Much confusion thus arose because of the different requirements in the various States, and with little discussion the Constitutional Convention declared that:

Congress shall have the power to establish a uniform rule of naturalization and uniform laws on the subject of bankruptcies throughout the United States.

Section 8,
clause 4.

* See American History, 421; 423.

† United States vs. Wong Kim Ark, 169 U. S., 649.

How an
alien
becomes a
citizen.

Declaration
of
intention.

Certificate
of natural-
ization.

The number of years of residence in the United States required before an alien might be admitted to citizenship varied until 1802 when the present rule of five years was adopted. An alien who has reached the age of eighteen years must, at least two years before admission to citizenship, appear before one of several State or United States courts designated in the law. He must declare upon oath that it is his *bona fide* intention to become a citizen of the United States and to renounce forever all allegiance to any government formerly having jurisdiction over him. If he has borne any title of nobility he must renounce it. This declaration is then recorded and the clerk furnishes the applicant with a certified copy which is sometimes called his "first papers."

Not less than two years nor more than seven years after this declaration, provided he has resided continuously within the United States at least five years and within the State or territory where the court is held at least one year, he must file in his own handwriting his petition for citizenship in which he declares that he is not opposed to organized government, is not a believer in the practice of polygamy, and intends to become a citizen of and reside permanently within the United States. Two witnesses who are citizens of the United States must testify to his term of residence and declare that during the time he has behaved as a person of good moral character, and is qualified to become a citizen. Ninety days from the filing of the petition the applicant is required to appear in open court and declare upon oath that he will support the Constitution of the United States and renounce and abjure all allegiance and fidelity to every foreign prince, State, or sovereignty whatsoever. The applicant must be able to speak the English language. The facts having been ascertained to the satisfaction of the court, a certificate of naturalization is granted. His wife and any of his chil-

dren under twenty-one years of age become citizens at the same time.

The children of naturalized citizens born abroad are regarded as citizens. Children of foreigners born in this country and residing here may elect their allegiance. An alien coming to the United States before he is eighteen years old may be admitted to full citizenship, upon the declaration of his intention, after he has resided in the United States five years and is twenty-one years of age. He must be able to prove a good moral character by two witnesses and satisfy the court that, for the two years next preceding, it has been his *bona fide* intention to become a citizen.

Status of
minors.

The United States District Courts have jurisdiction over bankruptcy cases according to the law of July 1, 1898. It provides also that any person who owes debts, except a corporation, may on his own motion, before such a Court, become a "voluntary" bankrupt. Any person or company, except a National bank or a bank organized under State or Territorial laws, owing debts of \$1,000 and over may be forced by creditors into "involuntary" bankruptcy after an impartial trial. It was estimated that within a period of less than three years after the passage of this law some 40,000 persons became voluntary bankrupts, and debts of over \$600,000,000 were thus cancelled.

Bank-
ruptcy
law of
1898.

II. THE POSTAL SYSTEM OF THE UNITED STATES

Congress shall have the power to establish post-offices and post-roads.

Section 8,
clause 7.

No part of our government better indicates the great rapidity of our National development than the progress of the post-office system. An act of Congress of 1782 directed that a mail should be carried at least once in each week from one office to another. In 1790 there were seventy-five post-offices in the United States; postage to the amount of \$37,925 was collected, and the post-roads extended over 1,875 miles. Said Postmaster-General Smith in 1899: "The postal establishment of the United

Develop-
ment of
the postal
system.

States is the greatest business concern in the world. It handles more pieces, employs more men, spends more money, brings more revenue, uses more agencies, reaches more homes, involves more details, and touches more interests than any other human organization, public or private, governmental or corporate." In 1910 there were 59,580 post-offices with employees numbering over 200,000. The expenditures amounted to \$229,977,000, and the total extent of mail routes was some 512,000 miles, and the number of pieces of mail matter handled was 14,000,000,000.

Classes of
mail matter
and rates.

There are four classes of domestic mail matter, as follows: First-class—letters, postal-cards, or other wholly or partly written matter and all matter closed against inspection. The rates of postage (postal-cards and "drop" letters mailed at non-delivery offices, excepted) are two cents per ounce or fraction thereof. There is also a two-cent rate to Great Britain and Germany. Second-class—newspapers and publications issued at stated intervals as often as four times a year, bearing a date of issue and numbered consecutively. When sent by the publishers or news-agents the rate is one cent a pound. For other persons the rate is one cent for four ounces. Third-class—books, proof-sheets accompanied by manuscript copy, and seeds may be sent at the rate of one cent for two ounces. Fourth-class—all merchandise not included in the other classes and limited to four-pound packages. The rate is one cent an ounce. All mail matter may be registered by the payment of eight cents in addition to the regular postage. A "special delivery" ten cent stamp in addition to the regular postage entitles any mailable matter to immediate delivery by special messenger, upon arrival at the post-office to which it is addressed.

Postal
savings-
banks.

For some years, there was an agitation in favor of establishing savings-banks, similar to those in European countries, in post-offices. It was urged that this would encourage thrift among small depositors who were not within easy reach of private savings-banks. A law was passed in 1910 which provided for the establishment of

postal savings-banks. The plan has proven a success. The post-office acts as the agent through which the funds are deposited in the National banks. The banks pay the government $2\frac{1}{4}$ per cent. interest of which the depositor receives 2 per cent.

The United States is the only great nation whose post-office system does not pay a profit. The deficit has been several millions of dollars annually, that for 1910 being \$6,000,000. This was caused largely by the transportation of second-class matter. Newspapers are carried free within the county of publication except in cities having free delivery. There is a charge of one cent a pound on periodicals entered as second-class matter, whereas the cost to the government for transportation is eight cents a pound. It has been contended by the publishers of periodicals in their opposition to an increase of the rates on this class of mail (1) that the advertisements in magazines increase the amount of first-class mail matter through the correspondence which they bring about; (2) that the government pays excessive sums to the railroad companies, thus increasing the deficit; and (3) that the post-office carries all government business free. But in 1911, for the first time since 1883, there was a postal surplus of nearly \$220,000 which was due chiefly to the improvement in administration.

The postal deficit.

One of the notable advances in the mail service was the provision for the free distribution of mail in cities of 10,000 inhabitants, or where the annual postal receipts are \$10,000 and above.

Free delivery.

A greater innovation was made possible by an act of Congress in 1897, which made an appropriation for testing the advantages of the free delivery system in the country districts. In many different sections of the country routes were established along which there is the daily collection and delivery of the mail from house to house. The plan has met with much favor. By November 30, 1909, 39,516 such routes had been established. The rural population receiving daily mail service amounted

Rural mail delivery.

to more than 18,000,000. In the districts where such routes have been formed there has been a large increase of postal receipts over the revenues received from the old system of rural post-offices.* In addition to bringing the country districts into more immediate connection with the centres of population, the establishment of these routes will bring about a more improved system of road making. Indeed it has practically been determined that good roads shall be made a prerequisite, and on one route the farmers expended \$3,000 in the improvement of the roads before the route was granted.

A parcels
post.

The Postmaster-General in 1908 asked permission to establish a limited parcels-post which should be confined to the rural delivery routes. It was urged that it would not alone be of great benefit to the farmers, but would bring large additional revenues to the post-office. The arguments against the system have been presented by the express companies and other common carriers on the ground that it would mean the destruction of much of their business. It was claimed also by merchants of small towns that the department stores of the cities would thus be able to undersell them. Although the plan was favored by the President, 1910, it failed in Congress.

Post-roads.

Post-roads, or routes, are declared by statute to be "all letter carrier routes in towns and cities, all railroads and canals, and all the waters of the United States during the time the mail is carried thereon."

III. COPYRIGHTS AND PATENTS.

The clause which provides that the rights of authors and inventors shall be protected by suitable Congressional enactment was adopted without debate in the Constitutional Convention. Congress was given power:

* During the year 1907-1908, 3,694 of these post-offices were discontinued.

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.

Section 8,
clause 8.

Any person desiring a copyright must deliver at the office of the Librarian of Congress, or deposit in the mail addressed to him, on or before the day of publication, a printed copy of the title of the book, map, chart, dramatic or musical composition, engraving, cut, print, photograph, or chromo, or a description of the painting, drawing, statue, statuary, or a model or design for a work of the fine arts for which he desires a copyright. Two complete printed copies of the best edition of the book, map, etc., or a photograph of the painting, statue, etc., copyrighted must be delivered or sent to the Librarian of Congress not later than the day of publication. These copies must be printed from "type set within the limits of the United States or from plates made therefrom, or from negatives, or drawings on stone made within the limits of the United States, or from transfers made therefrom."

Process of
obtaining a
copyright.
Law of
July, 1900.

After complying with the law the author, inventor, designer, or proprietor of the book, chart, engraving, etc., may have the sole liberty of printing, copying, and selling it for a period of twenty-eight years. A renewal for a second term of fourteen years may be secured by complying with all the regulations for obtaining the original copyright. Copyrights may be sold or transferred providing the record is made in the office of the Librarian of Congress within sixty days.

Protection
by the
copyright.

As early as 1819 the authors of England and the United States tried to induce Parliament and Congress to pass an international copyright law. The writings of an author of one of these countries were commonly republished in the other country without his consent. All attempts to secure such legislation were fruitless until Congress enacted, March 3, 1891, that our copyright law should also apply to a citizen of a foreign nation, providing citizens of the United States are given equal copyright privileges

International
copyright.

with the citizens of that nation, or in case such nation is a party to an international agreement, into which the United States may enter, which provides for "reciprocity in the granting of copyright." Copyright relations have been established by the United States with the following nations: Belgium, France, Great Britain and her possessions, Switzerland, Germany, Italy, Denmark, Portugal, Spain, Mexico, Chile, Costa Rica, and Holland.

Patents.

The inventive genius of the American people, together with the protection afforded inventors by our laws, account for the fact that out of 1,729,147 patents, the total number granted in all countries up to the year 1897, over one-third had been issued in the United States.* In the year 1910, 37,421 patents were granted by our government. A person desiring a patent must declare upon oath in his petition addressed to the Commissioner of Patents that he believes himself to be the first inventor of the article for which he solicits a patent. He must also submit a full description of the invention together with drawings, and if required by the Commissioner, a model of it. The sum of \$15 is charged for filing the application and \$20 for issuing the patent. The patent is issued for seventeen years, but may be extended for seven years longer by the Commissioner or by a special act of Congress, providing the inventor has not received what is regarded as an adequate money return. During this period, the patentee has the exclusive right to manufacture and sell his invention. He may also transfer the right to another if notice is sent to the Patent Office.

Caveat.

A caveat filed in the Patent Office gives a description of a proposed invention and secures to the inventor an extension of one year in which to complete his work.

The Patent Office is one of the self-supporting parts of the government. With the fees there has been constructed the building now occupied by the Department of the Interior, and a large surplus has been accumulated besides.

* Report of the Commissioner of Patents, 1897, p. vii.

IV. PIRACIES AND FELONIES

Congress shall have power to define and punish piracies and felonies committed on the high seas and offences against the law of nations.

Section 8,
clause 10.

The jurisdiction of a State is limited by the low-water mark. The United States has jurisdiction over the waters beyond the low-water mark and extending three miles farther into the ocean, and including gulfs and bays; also over crimes committed on vessels of this nation upon the high seas, that is, the waters of the ocean beyond this limit.

Crimes on
the high
seas.

"Piracy is robbery on the sea, or by descent from the sea upon the coast, committed by persons not holding a commission from, or at the time pertaining to, any established state." The established punishment for piracy is death. Each nation has the power to extend the definition of piracy, as, for illustration, in 1820 Congress declared the slave trade to be piracy. Such a law, however, can be made to apply only to citizens and vessels belonging to that nation.

Piracy.
Woolsey,
International Law,
§ 137.

Felonies are usually interpreted as including such extreme offences as treason, murder, arson, and other crimes, punishable by death or imprisonment in State prison.

Felony.

The law of nations or international law is defined as follows: "The rules which determine the conduct of the general body of civilized States in their dealing with one another."*

Law of
nations.

V. MILITARY POWERS OF CONGRESS

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

Section 8,
clauses 11,
12, 13, 14.

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years.

To provide and maintain a navy.

To make rules for the government and regulation of the land and naval forces.

* Lawrence, The Principles of International Law, p. 1.

Declaration
of war.

The power to declare war in European nations largely rests with the Executive. Such a plan was proposed in the Constitutional Convention but it was thought a sovereign power of this nature ought to be exercised in a Republic by the representatives of the people. A formal declaration of war is not absolutely necessary before hostilities are begun, but it is usual.

Privateers.

Great harm has been done to commerce through the use of privateers in time of war. These are vessels which are owned and officered by private persons but are commissioned through the granting by a government of letters of "marque and reprisal." * With such a commission, a vessel is privileged to seize the property of the enemy wherever found. In the Congress of Paris, of 1856, in which the chief European powers, Spain excepted, were represented, one of the principles agreed to was that privateering should be abolished. Although our government was not a party to the agreement, the President declared at the opening of the Spanish-American War, 1898, that its provisions should be maintained. Spain declared in favor of granting letters of marque to privateers but did not carry out the threat.

Captures.

Captures on land become the property of the government. Prizes, or captures on the water, are sold under the authority of the United States District Court. The proceeds are divided among the victorious crew in proportion to the service-pay of each, if the captured vessel is of equal rank with the captor; if of inferior rank one-half is paid to the government.

The army.

There was great jealousy and fear of the power of the army at the close of the Revolutionary War. In order that the standing army might not become unduly large, the Constitution provides that the appropriation for that purpose shall not be for a longer term than two years. It was believed that a check could then be imposed through the election of new Representatives. These appropriations have ordinarily been made annually. Compared

* The term was at first applied on land. An officer thus commissioned might pass the *mark*, or boundary, and make reprisals on the persons or property of the enemy.

with the standing armies of European nations, our army is insignificant in numbers.* The army of France on a peace footing now numbers 600,000 men; of Germany 617,000; of Great Britain 132,000; and of Russia 1,200,000.

The President is *ex-officio* commander-in-chief of the army and navy of the United States, but the actual movements of the army are practically directed by the lieutenant-general, the officer now highest in command. The commissioned officers of a company are captain, first and second lieutenants, with an additional first lieutenant for the artillery. The non-commissioned officers are first sergeant, sergeant, and corporal. Officers above the rank of colonel are called "officers of the line" and all others "field officers."

Officers of
the army.

The construction of a navy in the modern sense was not begun by our government prior to 1883. Since that time there has been a notable advance and in 1910 it was estimated that our navy was excelled in strength only by that of Great Britain. Congress, in 1910, in spite of the opposition of the advocates of peace, continued the policy of "adequate preparation" by authorizing the construction of two battle-ships a year. The Secretary of the Navy declared that the purchase of eight additional battle-ships at an outlay of \$50,000,000 would have prevented the war with Spain, which necessitated an immediate outlay of more than ten times that amount and an average annual expenditure besides of \$2,000,000 for pensions.

The navy.

A ship of the first class is given the name of a State, one of the second class that of a principal city or river, and the name for one of the third class is selected by the President. The navy now contains over 150 ships. At the beginning of the year 1910, the number of men on board the war-vessels aggregated 46,000. The titles admiral and vice-admiral, corresponding to the grades

Classes and
names of
vessels.

Number of
men and
officers in
the navy.

* The "New Army Law" of January, 1901, established the minimum of men in the army at 57,000 and the maximum at 100,000. In 1908 the number of officers and men in the army was 72,628.

of general and lieutenant-general in the army, were created by act of Congress to be bestowed as a recognition for very distinguished service during the Civil War on the following men: Admirals Farragut and Porter, and Vice-Admirals Farragut, Porter, and Rowan. Admiral Dewey was likewise granted his title by a special act of Congress after the battle of Manila. Grades in the line of the navy ranking with the army officers, major-generals, brigadier-generals, colonels, and so on, are rear-admirals, captains, commanders, lieutenant-commanders, lieutenants, masters, ensigns.

Naval
militia.

The naval militia has been organized in eighteen States. They are under the immediate direction of the governors and adjutant-generals. When called into service during time of war they man the vessels for the defence of the harbors, thus freeing the regular force to engage in active warfare.

The militia.

A nation must depend for protection either upon a large standing army or upon citizen-soldiers. Since the regular army was to be small, the plan to provide for the militia met with but little opposition in the Constitutional Convention. Congress was accordingly given the power:

Section 8,
clause 15.

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions.

Clause 16.

To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

Who are
the militia?

As defined by Congress the militia consists of all able-bodied male citizens of the United States and those who have declared their intention to become citizens between the ages of eighteen and forty-five years.

The
National
Guard.

That portion of the militia regularly organized into regiments in the various States under officers of their own selection is called the National Guard. They are granted military stores by

order of the Secretary of War and are called upon to take part in the manœuvres and field practice of the regular army. In case of need they may be called into the field as a second line of national defence. The number of men in the National Guard is over 130,000.

When war with Spain was determined upon, the volunteer army bill was passed by Congress and the President issued a proclamation, April 23, calling for 125,000 volunteers for two years' service. May 25, there was a second call for 75,000. These were apportioned among the States and Territories according to their population. The militia could not be called out, for the conditions mentioned in clause 15 did not apply, and it was necessary to resort to the volunteer service. Preference was given to those volunteers who were members of the organized militia.

Volunteers
of 1898.

VI. LOCATION OF THE CAPITAL

The Congress of the Confederacy, in 1783, while in session at Philadelphia, made a fruitless appeal to the authorities of Pennsylvania for protection against the menaces of a portion of the unpaid Revolutionary army, and was compelled to leave the city. The agitation arising over this incident doubtless led to the Constitutional provision:

Congress shall have the power to exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings.

Section 3,
clause 17.

After a notable contest, Congress in 1790 accepted the cession of ten miles square of land in which to locate the National capital, offered by the States of Maryland and Virginia and situated on the Potomac River. Some

District of
Columbia.

thirty square miles were afterwards ceded to Virginia. New York had been the capital since 1785. In 1790 it was again located at Philadelphia for ten years, and was then transferred to the District of Columbia.

Government of the District.

The local affairs of the District are administered by three commissioners: a Republican, a Democrat, and an officer of the Engineer Corps of the army. They are appointed by the President and confirmed by the Senate for a term of three years, and each has a salary of \$5,000 per annum. They are granted the privilege of originating many bills relative to the affairs of the District, which then pass through the ordinary course of legislation in Congress. All other officers are appointed by the President, the inhabitants not having the right of the ballot in a single instance. One-half the expenses of the government is provided for through Congressional appropriations. The remainder is met by taxation in the District.

Forts and arsenals.

When the States sell land to the general government to be used for forts, magazines, and other purposes, they usually reserve the right to serve civil and criminal writs on persons within the ceded territory. Such places cannot, in consequence, become asylums for fugitives from justice.

VII. IMPLIED POWERS

We are now to consider one of the most important grants of power to Congress:

Section 8, clause 18.

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the government of the United States or in any department or officer thereof.

Our national development has been largely dependent upon the liberal construction given this clause, which is often called the "elastic clause" of the Constitution.

Strict and loose construction

The question of its real interpretation arose over the problem of establishing the first United States Bank in 1791. Madison urged, when the measure was being considered in the House of Representatives, that Congress

did not possess the power of establishing such a corporation, since it was not *expressly* granted by the Constitution. When President Washington referred it to his Cabinet for consideration, Jefferson took a similar position. Hamilton maintained, on the other hand, that the power was *implied* in the foregoing clause, and that if the bank were "necessary and proper to carry out any specific powers, such as taxation and the borrowing of money, then Congress might create a bank or any other public institution to serve its ends."

We have here the first assertions of the doctrines of the strict and loose constructions of the Constitution. A few of the other great questions, besides that of the United States Bank, which have led to the definition of these views have been, Has Congress the right to make appropriations for internal improvements? Does the Constitution allow the establishment of a protective tariff or the acquisition of territory? Is not the making of paper money legal tender unconstitutional? In general, the views on the interpretation of the Constitution held by Hamilton and the Federalists have been those of the Whig and the Republican parties, and those held by Jefferson and the anti-Federalists have constituted the guiding principles of the Democratic party. Strictly speaking, however, the party in power have been loose constructionists and their opponents have been strict constructionists. A study of the questions just indicated shows that there has been present the tendency, throughout the history of our nation, to advance the principle of the broad interpretation of the Constitution, and this has led to the taking of an advanced position by the party of strict interpretation. Thus the Democratic party of 1850 would be considered the party of liberal interpretation if compared with the Democratic-Republican party of Washington's administration.

The
positions
of political
parties.

Mr. Bryce has well said: "The interpretation which

has thus stretched the Constitution to cover powers once undreamt of may be deemed a dangerous resource. But it must be remembered that even the Constitutions we call rigid must make their choice between being bent or being broken. The Americans have more than once bent their Constitution in order that they might not be forced to break it." *

SUPPLEMENTARY QUESTIONS AND REFERENCES

1. What are some of the difficulties encountered in becoming a citizen? Independent, 65 : 994-1000.
2. The following references are good on the subject of postal reform: Forum, 24 : 471-475; 723-728; N. Am. Rev., 166 : 342-349; 172 : 420-430.
3. For postal savings-banks in Great Britain, see Arena, 33 : 31-37; 35 : 590-592.
4. For parcels post in Europe, see Arena, 34 : 113-119.
5. Should there be a system of postal telegraphy? Cen. Mag., 59 : 952-956; N. Am. Rev., 172 : 554-556.
6. For the methods employed in the patent office and a comparison between our system and that of European nations, see The United States Patent Office, Cen. Mag., 61 : 346-356. ♦
7. Describe the organization of our army. Harper's Mag., 80 : 493-509; Forum, 21 : 34-43.
8. For an interesting account of the army and navy at the opening of the war with Spain, see Lodge, Harper's Mag., 98 : 833-858.
9. How is the success of our navy in the war with Spain accounted for? Atl. Mo., 82 : 605-616; Scribner's Mag., 24 : 529-539.
10. The process of the construction and cost of a battle-ship. Cen. Mag., 48 : 347-352.
11. The process of building a dreadnought. Rev. of R's, 39 : 749-750.
12. Our naval progress compared with other nations. Rev. of R's, 17 : 70-71; 39 : 347; World's Work, 21 : 13898-13902.

* Bryce, American Commonwealth, I, 390.

13. The costliness of war, see *Arena*, 36 : 337-344.
14. Should the navy be enlarged? *Indept.*, 38 : 589-594.
15. Message of President Roosevelt on the army and navy, 1907. *Reinsch, Readings on American Federal Government*, 610-618.
16. The significance of the world cruise of the fleet, 1907. *Rev. of R's*, 37 : 456-463; 38 : 281.
17. What special problem was connected with the location of the capital? How was it finally settled? *Hart, American History Told by Contemporaries*, III, 269-272; *Schouler*, I, 152-156; *McMaster*, I, 555-562.
18. The development of Washington during the one hundred years of its existence is discussed in *Rev. of R's*, 22 : 675-686; *Forum*, 30 : 545-554.
19. For the influence of the implied powers, see:
 - a. Internal improvements. *American History*, 277; *Hart, American History Told by Contemporaries*, III, 436-440; *Walker, The Making of the Nation*, 204, 205, 262, 263; *Hart, Formation of the Union*, 227-229, 253-255.
 - b. The United States Bank. *American History*, 220-222, 286; *Hart, American History Told by Contemporaries*, III, 446-450; *Hart, Formation of the Union*, 150-151, 226-227; *Walker, The Making of the Nation*, 82-83.
 - c. The annexation of territory. *American History*, 247; *Hart, American History Told by Contemporaries*, III, 373-376; *Walker, The Making of the Nation*, 177-184; *Hart, The Formation of the Union*, 188.
 - d. Legal tender cases. *American History*, 378, 388; *Wilson, Division and Reunion*, 280-281.
20. Make a list of the powers of Congress thus far discussed. See article I, section 8. Mention in connection with as many of these as possible some action of Congress taken by virtue of the power stated in clause 18 of section 8.

CHAPTER XXI

POWERS DENIED THE UNITED STATES AND THE SEVERAL STATES

Prohibi-
tions on the
United
States.

AFTER an enumeration of certain powers granted to Congress, we come next to consider those retained by the people. They represent the fruits of centuries of contests which not even the representatives of the people should be privileged to destroy. In like manner, at the time of the formation of the Constitution it was desirable that the general government should be protected from the encroachments of the individual States.

Slave trade
prohibited.

Traffic in slaves was general among civilized nations in 1787. It is satisfactory to note, therefore, that a majority of the delegates in the Convention favored the prohibition of the slave trade immediately. All of the States, Georgia, North Carolina, and South Carolina excepted, had already prohibited it. Through fears that the adoption of the Constitution would be endangered, a concession was finally made to these States by a compromise which provided that the slave trade should not be prohibited for a period of twenty years.

Article I,
section 9,
clause 1.

The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

Such a tax was never imposed. It was found that the law of 1807 which was to take effect January 1, 1808,

and thus carry out the intention of this clause, did not wholly stop the traffic. Congress, therefore, in 1820, declared the slave trade to be piracy punishable with death.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it. Section 9,
clause 2.

A writ of *habeas corpus* is a writ granted by a court commanding an officer to produce before it the body of a prisoner, that the court may inquire into the cause of imprisonment or detention. If after such inquiry, it is found that a person is detained for insufficient cause, he is given his freedom. Congress has been given, by judicial decision, the right to suspend the writ in case of rebellion or invasion, but may grant this right to the President.* Habeas
corpus.

No bill of attainder or ex post facto law shall be passed. Clause 3.

"Bills of attainder are such special acts of the legislature as inflict capital punishments upon persons supposed to be guilty of high offences, such as treason and felony, without any conviction in the ordinary course of proceedings. If an act inflicts a milder degree of punishment than death it is called a bill of pains and penalties." The great abuses under such a law grow out of the fact that persons may be deprived of life, liberty, or property without judicial procedure, and such action would be intolerable in the United States. Bill of
attainder.

Story, On
the Consti-
tution, II,
216.

The Supreme Court has given the following definition: "An ex post facto law is one which renders an act punishable in a manner in which it was not punishable when it was committed. The phrase applies to acts of a criminal nature only. . . . Laws which mitigate the character or punishment of a crime already committed, may not fall within the prohibition, for they are in favor of the citizen." † Ex post
facto laws.

Story, On
the Consti-
tution, II,
220, 221.

* For President Lincoln's use of this writ, see American History, p. 391.

† Section 9, clause 4, is discussed under National Finances, p. 167. Section 9, clauses 5 and 6, are discussed under Commerce, p. 174.

Clause 7.

No money shall be drawn from the Treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

Care of
public
money.

It is proper in a government such as ours that the control of the public money should be lodged with the representatives of the people. Through the annual report of the Secretary of the Treasury, the people may know from what sources our revenues are derived and for what purposes the money is expended.

Clause 8.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office, or title of any kind whatever from any king, prince or foreign state.

Titles of
nobility.

An amendment proposed in 1809 provided that any one who accepted a title of nobility, or, without the consent of Congress, a present, office, or emolument from any foreign sovereign or state should cease to be a citizen of the United States and be incapable of holding any office therein. That the spirit of antagonism to a titled citizenship was general is shown by the fact that this amendment passed both Houses of Congress, received the sanction of twelve States, and failed of ratification by only one vote.

Gifts from
foreign
states.

It was hoped through the second part of the clause that public officers would be removed from the dangers of bribery by foreign nations. Congress may allow gifts to be accepted by our officials but usually they pass into the control of the government.

Section 10,
clause 1.
Absolute
prohibi-
tions on
the States.

No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal, coin money, emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

It is obvious that the power to enter into treaties, alliances, and confederations or to grant letters of marque and reprisal should be confined to the general government alone. Otherwise, there would be constant danger that the individual States might enter into alliances or grant privileges which would tend to destroy the Union. Congress had already been given the power to coin money and regulate its value. Hopeless confusion must ensue were the States to be given like powers. During the colonial and revolutionary periods there were many notable examples of the evils which always followed the issue, by the States, of paper money designed to circulate as a legal tender.

The States
and money.

When two or more persons enter into a compact "to do or not to do a particular thing" which is legally binding upon them, no State may, in any way, modify this agreement. This interpretation was established by the decision in the celebrated Dartmouth College case.*

Obligation
of
contracts.

No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any State on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

Section 10,
clause 2.
Condi-
tional pro-
hibitions
on the
States.

No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State or with a foreign power, or engage in war, unless actually invaded or in such imminent danger as will not admit of delay.

Section 10,
clause 3.
Other con-
ditional
prohibi-
tions on the
States.

Were the States given power to lay tonnage dues (a tax on ships by the ton according to their carrying capacity),

* See Magruder, John Marshall, American Statesman Series, 190-193; American History, p. 286.

it would interfere with the regulation of commerce by Congress. No justification for the remaining prohibitions is needed, for if these powers were possessed by the States the Union might quickly be destroyed.

CHAPTER XXII

THE EXECUTIVE DEPARTMENT

NOMINATION OF PRESIDENT AND VICE-PRESIDENT

THE great weakness of the government under the Confederation grew out of the fact that there existed no adequate executive. The desire to remedy this defect was general and all of the plans submitted in the Constitutional Convention made provision for an executive. There was no agreement, at first, as to whether the executive power should be vested in one person or more than one. The fear of a monarch was deep-seated in the minds of the people. Finally, the desire to secure energy in the execution of governmental affairs and responsibility led to the determination to provide for a single executive.

The
Executive.

It was proposed in the draft submitted by Mr. Pinckney, that the executive power should be vested in a President of the United States of America who should have the title, "His Excellency."* The term President was in common usage; Congress had called its chief officer President, and the chief magistrates in some of the States bore the same name. Much discussion was aroused over the question of the proper duration of the term of office. Hamilton and Madison favored a continuance in office during good behavior. A term of three years and one of

Title and
length of
term of the
Executive.

* The proposition was made, in Congress, soon after the government went into operation, that some more dignified title should be applied to the President. "His Highness, the President of the United States and Protector of their Liberties," "His Patriotic Majesty," "His High Mightiness," and other aristocratic titles were suggested. But an agreement was reached that he should be addressed in official documents as the "President of the United States."

seven years were also recommended during the early days of the Convention. The proposition to choose the Executive for seven years was at first carried by a majority of only one vote; but when the clause, "to be chosen by the National Legislature," was added, eight States agreed to it. That the President should not be eligible for re-election was determined by the same number of votes. So the clause stood in the first draft of the Constitution. Toward the close of the Convention, upon recommendation of a committee that the method of election previously agreed to should be changed, the length of term was fixed at four years. It was then declared, too, that by this change the President might be elected for more than a single term. So the clause finally read:

Article II,
section 1,
clause 1.

The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected as follows:

Method of
election.

No problem in the Constitutional Convention was more difficult of solution than that of determining the method by which the President was to be chosen, and it is said to have occupied one-seventh of the entire time of the Convention. Many plans were proposed. Among them were those which provided for the selection by Congress; by the people; and by Electors who should be appointed as the State legislatures might direct. The method most in favor for a considerable time proposed that the President should be chosen by Congress. The argument which led to a reversal of the decision toward the end of the Convention was that the President would be liable to become a tool in the hands of the dominant party in Congress. This desire to escape any official influence led to the adoption of the clause that: "No Senator or Representative, or person holding a position of trust or profit under the United States, shall be appointed an Elector." There was

general distrust of the method of election by the people because of the "tumult and disorder" which it was believed would be the accompaniment of such an important choice. Then, too, the belief was general in the Convention that the people would not be sufficiently well informed concerning the qualifications of men who were suitable for the Presidency.

The Convention at last decided in favor of giving the selection of the President and the Vice-President into the hands of independent Electors, whose appointment was provided for as follows:

Each State shall appoint, in such manner as the legislature thereof may direct, a number of Electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an Elector.

Section 1,
clause 2.
Appointment
of
Electors.

Many different methods of choosing Electors have been used. The favorite at first was that each State legislature chose the Electors for its State. South Carolina used this method until 1868. The district method has also been used, by which an Elector is chosen in each of the Congressional districts and two for the State at large. This method, which most nearly expresses the wishes of the people, has been used but once since 1832.* At the present time, the Electors are elected in each State on a general ticket by direct vote. Each political party nominates a "number of Electors equal to the whole number of Senators and Representatives to which the State may be entitled in Congress."

The nominations of candidates for the office of Elector

* In 1892 Michigan chose her Electors by districts. A test case was brought before the United States Supreme Court on the ground of unconstitutionality. It was decided that the Legislature had acted within its powers, but two years later the law was repealed.

are usually made at the State Conventions of the different parties when they nominate State tickets. These occur usually in August or September preceding the November election. Each person then votes for the entire number of Electors to which his State is entitled, and will naturally vote for all the Electors of his party ticket. The political party, therefore, which receives the majority of the votes in a State secures all the Electoral votes of that State.*

Nomina-
tion of can-
didates for
President
and Vice-
President.

It was originally intended that the Electors should exercise the right of free choice, but on account of the growth of the power of political parties they do not. They are pledged to vote for candidates already nominated in party conventions. So we know the day following the election who is to be the next President. The framers of the Constitution did not anticipate such an influence and considered no plans for nominating candidates. But as this has become the real method by which Presidents are selected, we shall consider next the place of National Conventions.

The
National
Conven-
tions.

The National Conventions of both the great parties are made up of twice as many delegates from the different States as these States have Representatives and Senators in Congress. The four delegates representing twice the number of Senators are known as delegates-at-large. There are also chosen as many alternates as delegates.

* It has sometimes happened, however, when the election in a State has been close that one or more of the Electors on a minority ticket have run ahead of the other candidates on that ticket and have secured a larger number of votes than candidates on the majority ticket, thus obtaining an election. California, in 1892, gave one Electoral vote to Mr. Harrison and eight to Mr. Cleveland, and again, in 1896, gave eight votes to Mr. McKinley and one to Mr. Bryan. Kentucky, in 1896, cast twelve votes for Mr. McKinley and one for Mr. Bryan.

Instances have occurred in which two weaker political parties have combined in their Electoral ticket against a stronger party and by such a *fusion* have been able to carry a State, thus dividing the Electoral votes of that State between them.

These delegates are chosen by Conventions in the different States in April or May of the Presidential election year. According to the prescribed method, in the Republican party two delegates are selected for each of the Congressional districts by the district Conventions of each party and the four delegates-at-large are chosen by the State Conventions. Delegates in the Democratic party may be chosen in State Conventions or in district and State Conventions. New Jersey, Wisconsin, Nebraska, North Dakota, Oregon, and California provide by statute for a Presidential primary. It is endorsed by the Progressives in other States.

The National Convention is held in some leading city during the month of June or July of the year in which a President is to be elected. A few days before the day set for the Convention the delegates, together with many thousands of politicians, newspaper reporters, and sight-seers, flock to that city. Headquarters are established and delegations are "labored with" in behalf of the different candidates. On the day appointed, the Convention is called to order by the chairman of the National committee under whose auspices the Convention is to be held. A temporary chairman is elected, clerks and secretaries are appointed, and rules for the government of the Convention are adopted. Committees are then made up, the most important being those on credentials, which decides the questions of contested seats; on permanent organization, and on resolutions, and the Convention adjourns to await their reports. In the next session, a permanent chairman, secretary, and other officers are selected. On the same day or the next the report of the committee on resolutions, which sets forth the platform embodying party doctrines and principles, is given.

Usually on the third or fourth day the nominations are made. The roll of States is called and the names of the various favorites are placed before the Convention as their

Work of
the
National
Conven-
tion.

home States are reached. A State sometimes waives its privilege in behalf of some other State which has a candidate to present. Again, the clerk calls the roll of the States and each chairman of a delegation announces the votes from his State. In the Democratic party the majority vote of the delegates from a State determines how the whole vote of that State must be cast. When Republican delegates are not instructed each may vote as he pleases. In the Republican Convention, a majority of the number of delegates voting is sufficient for nomination. No nomination is possible in the Democratic Convention except by the vote of two-thirds of the delegates voting. Then follows the selection of a candidate for Vice-President. In this choice the attempt is made to secure some man who will add strength to the party and who comes from a different section of the country from that represented by the candidate for the Presidency. He may, as in the cases of Tyler and Johnson, represent a faction of the party that is not in entire agreement with the majority.

The
National
Com-
mittee.

A National Committee is also appointed, made up of one member from each State, nominated by the State delegation. This committee is elected before the nominations have been made. The wishes of the nominee prevail in the choice of the chairman. The committee occupies a position of great importance, for by it the platform of the party is largely determined. We have here a body of men not mentioned by the Constitution but exerting vastly greater influence upon the election of President than does the Electoral College itself. The campaign is organized by this committee. Money is secured, speakers are selected, and party literature is sent out by it. The committee looks after the interests of the party during the ensuing four years and issues the call for the next National Convention.

Some idea of the extent of the National Committee's power may be gathered when we consider the size of the campaign fund intrusted to its care. It is said that the whole cost of conducting the campaign in which Mr. Lincoln was elected for the second time amounted to \$100,000. The amount of money spent by each of the two National Committees in 1900 is estimated at \$5,000,000. A large proportion of this sum was expended in the establishment of National Committee head-quarters, in the publication and distribution of campaign literature, and in meeting the expenses of speakers. Two significant reforms were introduced in the election of 1908. (1) By an act of 1907, Congress forbade corporations to make contributions to campaign funds in Federal elections. (2) The Democratic platform demanded publicity in campaign expenses and Mr. Taft, as the Republican candidate, announced that all contributions would be made public after the election.

Campaign
fund.

Like the development of other political usages, the method of nominating a President passed through several stages before the present plan of nominating conventions was reached. No nominations were made in the first two Presidential elections and Washington was elected as provided for by the Constitution. In 1796, Washington having refused to be a candidate for a third term, party managers in Congress agreed informally on Adams and Jefferson as the candidates of the Federalist and the Republican parties. A caucus of Federalist Congressmen, in 1800, nominated Adams and Pinckney, and a caucus of Republican Congressmen nominated Jefferson and Burr for the offices of President and Vice-President. The Republican members of Congress continued to hold a regular caucus and thus direct the votes of the party Electors until 1824. In that year William H. Crawford, the last Congressional nominee, was defeated. There was opposition to the Congressional caucus from the beginning, for such a method was regarded as undemocratic. In 1824 and 1828, the several State legislatures put forward their favorites for the office of President.

Early
methods of
nominat-
ing.

The National Nominating Convention, as we know it, was used for the first time by the Anti-Masonic party which selected William Wirt for its candidate in 1831. This method was followed in the same year by the National Republican party which nominated Henry Clay. The

Nomina-
tion by
National
Conven-
tions.

National Convention of the Democratic party in 1832 nominated Andrew Jackson, who had already been nominated by many local Conventions and State legislatures. Many years elapsed before the present complex organization was reached, but since 1836, with the single exception of the Whig party in that year, parties have regarded the National Convention as an essential factor in electing President and Vice-President.

SUPPLEMENTARY QUESTIONS AND REFERENCES

1. July 9, 1789, the Constitutional Convention, by a vote of 9 to 1, fixed on a term of six years for the President with no re-election. Would this be a desirable change at present? Presidential Elections Paralyzing to Business, *Forum*, 22 : 563-570.

2. Why was it thought best to make the President eligible to re-election for more than one term? Madison, *Journal of the Constitutional Convention*, 369; *The Federalist*, No. 72.

3. What led to the understanding that a President was to be elected for only two terms? Is there good reason for holding to this tradition? McMaster, *The Third Term Tradition*, *Forum*, 20 : 257-265; Eaton, *The Perils of Re-electing Presidents*, *N. Am. Rev.*, 154 : 691-704.

4. What Presidents have served two terms? How was their election for a second term to be accounted for? See *American History*.

5. The method of calling National political conventions. When held? Questions considered? Make a study of the last conventions. Thurston, *How Presidents are Nominated*, *Cosmop.*, 29 : 194-200; Maurice Low, *How a President is Elected*, *Scribner's Mag.*, 27 : 643-656; *Republican Convention, 1908*, *Rev. of R's*, 38 : 8, 9; *Democratic Convention, 1809*, *Rev. of R's*, 38 : 178-184.

6. What is a "dark horse" in a National Convention? Give instances in our history.

7. Under what conditions was the first platform of a National Convention agreed upon? Wilson, *Division and Reunion*, 63.

8. Compare the chief planks given in the various party platforms of the last Presidential election. Do the successful parties generally fulfil the pledges of their platforms?

9. For the work of the National Committee, see *Rev. of R's*, 22 : 549-563.

10. What was the probable origin of the system of electing a President by Electors? Fiske, *Critical Period of American History*, 66 : 280-289.

11. For the methods which have been used in electing a President, see *N. Am. Rev.*, 171 : 273-280.

12. How was the method of electing the President by independent Electors regarded at the time of the adoption of the Constitution? *The Federalist*, No. 68.

13. Should Electors for President and Vice-President be elected by the vote of Congressional districts with two at large for each State instead of upon a general ticket? *Forum*, 12 : 702-713; *N. Am. Rev.*, 154 : 439-446; *The Federalist*, No. 68; Bancroft, *History of the United States*, VI, 328-340.

14. Should the President be elected by direct popular vote? *Indept.*, 68 : 191-194; *Outlook*, 90 : 299-303; 776-777; *N. Am. Rev.*, 171 : 273-288; Schouler, *Grave Dangers in Our Presidential Electoral System*, *Forum*, 18 : 532-536; Carlisle, *Dangerous Defects in Our Electoral System*, *Forum*, 24 : 257-266; 651-659; *Scribner's Mag.*, 27 : 643-656.

15. For arguments in favor of and opposed to a Presidential primary, see *Outlook*, 100, 164, 165.

16. For campaign expenses, 1908, see *Rev. of R's*, 38: 139; 432-438.

CHAPTER XXIII

THE ELECTION OF A PRESIDENT

HAVING considered the method by which a President is nominated and that by which the Electors are chosen, we are now prepared to discuss the way in which the Electors choose a President, for the steps prescribed by the Constitution must still be followed, although the election has been practically decided by popular vote. The function of the Electors is given in Article XII of the Amendments.

Function
of the
Electors.

The Electors shall meet in their respective States and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign, and certify, and transmit, sealed, to the seat of government of the United States, directed to the President of the Senate;—the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted;—the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then, from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this

Amend-
ment XII.

purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right to choose shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.—The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of Electors appointed; and if no person have a majority, then, from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

The Electoral Colleges, made up of the Electors in the several States, are all required to meet on the second Monday in January. Each Electoral College must meet in its own State, usually at the State capital. After the Electors have voted for President and Vice-President separately, three lists are made of all the persons voted for as President and as Vice-President and the number of votes for each. These lists are then certified to, signed by the Electors, and sealed. One of the lists is carried by a special messenger to the President of the Senate at Washington; another is sent by mail to the same officer, and the third is deposited with the United States District Court Judge of the district in which the Electoral College meets.*

Meeting of
the
Electoral
Colleges.

* If neither of the other lists has been received by the President of the Senate by the fourth Monday in January following the election, he may send a special messenger to obtain the list deposited with the District Judge.

Counting
the
Electoral
votes.

These votes are opened by the President of the Senate in the presence of the Senate and the House of Representatives on the second Wednesday in February, and the votes are counted. The person having a majority of all the Electoral votes cast for President is declared to be duly elected President of the United States, and the person who has a majority of the Electoral votes cast for Vice-President is declared duly elected Vice-President of the United States. Contrary to the expectation of the Constitutional Convention, the votes cast by the Electors since 1800 have been merely a form of registering the popular verdict. While there is no law which prevents an Elector from voting for candidates other than those on his ticket, still the custom of voting only for his own party candidates has become as binding as any statute.*

Amending
the Con-
stitution
by usage.

Thus, in the election of a President, we have an excellent illustration of what has been styled "Amending the Constitution by usage." "The difference between the actual and the Constitutional modes is the difference between an ideal non-partisan choice and a choice made under party whips; the difference between a choice made by independent unpledged Electors acting apart in the States and a choice made by a National party Convention."†

Election of
a President
by the
House of
Represent-
atives.

If none of the candidates receives a majority of the Electoral votes, the House of Representatives must proceed immediately to choose a President from the three candidates having the highest number of Electoral votes.

* The most notable exception was in the election of 1872, when sixty-six Electors were pledged to vote for Horace Greeley for President. Mr. Greeley died before the meeting of the Electoral Colleges. When they met, the votes of the Electors were divided between two prominent Democrats, with the exception of those of three Electors who still insisted in carrying out instructions by casting their ballots for Mr. Greeley. The question arises, What would have been the solution of the problem were a majority pledged to vote for him?

† Wilson, Congressional Government, 243, 244.

In 1825 the House was called upon to choose a President from the three highest candidates; Andrew Jackson, John Quincy Adams, and William H. Crawford. Mr. Adams was chosen President, having received the votes of thirteen out of twenty-four States, although he had fewer Electoral votes and fewer popular votes than Mr. Jackson.

The XIIth Amendment provides that if a President is not chosen by the House of Representatives "when-
 ever the right of choice shall devolve upon them before the fourth day of March next following, then the Vice-President shall act as President," as in the case of the death, resignation, or removal of the President. There has been no such case in our history. It is also provided that if no person have a majority of the Electoral votes for Vice-President the Senate shall choose the Vice-President from the two candidates having the highest numbers on the lists. The one instance of the election of a Vice-President in this way occurred in 1837, when the Senate elected Richard M. Johnson, who had already received the highest Electoral vote.

The Vice-
President.

The framers of the Constitution did not consider the question of appointing a tribunal to whom might be referred the returns of a State when in dispute, or to decide between two conflicting returns from two sets of Electors. By a joint rule adopted in 1865, the vote of any State, where there was objection made, was not to be counted except by agreement of both Houses of Congress. The votes of two States were rejected under this rule in 1873. On both dates the Senate and the House were under the control of the same political party.*

Disputed
returns.

The wisdom of having uniform days when the Electors are to be chosen and when they must give their votes is almost self-evident. So the Constitution provides:

* For the Electoral Commission, 1876, see American History, p. 448.

Article II,
section 1,
clause 3.

Times of
election
and voting.

The Congress may determine the time of choosing the Electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

By such a provision, there is less opportunity for political intrigue and combination. The day on which the Electors were to be chosen was changed from time to time until 1845, when Congress enacted that the day should be the same throughout the United States. They selected the first Tuesday after the first Monday in November of the years exactly divisible by four. In nearly all of the States this is also the day for the election of State officers and is known as general election day. As already indicated, the second Monday in January is now the day on which all the Electoral Colleges are required to cast their votes. The President of the Senate sends for the missing returns on the fourth Monday in January. The certificates are opened and the votes are counted on the second Wednesday of February.

The first three Presidents were chosen by the method given in the original clause.

Section 1,
clause 2.
The
original
method of
choosing
the
President.

"The Electors shall meet in their respective States, and vote by ballot for two persons, of whom one, at least, shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they sign and certify, and transmit, sealed, to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of Electors appointed; and if there be more than one who have such a majority, and have an equal number of votes, then the House of Representatives shall immediately choose, by ballot,

one of them for President; and if no person have a majority, then, from the five highest on the list, the said House shall, in like manner, choose the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the Electors shall be the Vice-President. But if there should remain two or more who have equal votes the Senate shall choose from them, by ballot, the Vice-President.

According to this clause it will be noted that the Electors voted for two persons without stating which was to be President and which Vice-President. In the official count the candidate receiving the highest number of votes, provided it was a majority of the whole number of Electoral votes, became President and the one receiving the next highest became Vice-President.

Accordingly, in the election of 1796, John Adams, who received the highest number, 71, out of 132 Electoral votes, was elected President, and Thomas Jefferson became Vice-President, having received 68 votes or the next highest number. Evidently this was a weakness in the system of election which had not occurred to the makers of the Constitution. By it, the President and Vice-President might be of different political parties.

Election of
1796.

The election of 1800 showed the plan to be impracticable in another way.* The election went to the House of Representatives, where, on the thirty-sixth ballot, Mr. Jefferson received the votes of ten States out of sixteen and was elected. For seven days the House had been in continuous session and the country was in such a state of excitement that there was danger of civil war. In order to prevent a recurrence of the conditions which obtained in 1796 or of the dangers incident to a contest like that of 1800. the twelfth Amendment was proposed by Congress and after ratification was declared in force, September 25, 1804. This provides, as already seen, that the Electoral votes must be cast separately for President and for Vice-President.

Election of
1800.

* See American History, p. 237.

Minority
Presidents.

In ten Presidential elections, while the successful candidate has received a majority of the Electoral votes, he has failed to receive a majority of the popular votes and is known as a minority President. Such a condition has happened so frequently that suggestions have been made looking toward the abolishment of the system of Electoral Colleges by amending the Constitution in such a manner as to provide for election by a direct popular vote.

The qualifications for the two offices are naturally the same.

Section 1,
clause 4.
Qualifica-
tions for
President
and Vice-
President.

No person, except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

Both officials must be natural-born citizens of the United States. The exception that a person might become President who was a citizen of the United States at the time of the adoption of the Constitution was eminently just. At that time there were many notable men, among them Alexander Hamilton, who though foreign born had rendered efficient services in the winning of independence and in the organization of the government. It would have been an ungracious act were they excluded from any office in the gift of the people. Residence abroad, as a minister or other official under the government, does not disqualify a person from becoming President.

The chief reason for creating the office of Vice-President seems to have been to provide for the emergency of a vacancy in the Presidency.

Section 1,
clause 5.
Vacancies.

In case of the removal of the President from office or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation, or inability both of

the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

By an act of 1886, Congress provided that the Presidential succession should be in the following order: the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Attorney-General, the Postmaster-General, the Secretary of the Navy, and the Secretary of the Interior. When the Secretary of Agriculture was made a member of the Cabinet, in 1889, his name was added to this list. In case a Cabinet officer becomes President, he holds the office for the unexpired term.

Presidential
succession
established
in 1886.

The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he may have been elected, and he shall not receive within that period any other emolument from the United States or any of them.

Section 1,
clause 6.

Congress fixed the annual salary of the President at \$25,000. It remained the same until the year 1873 when it was raised to \$50,000 and to \$75,000 in 1909. The wisdom of fixing his salary so that it may not be increased or diminished during his term of office is apparent. Otherwise he would become a dependent upon the favor of Congress. The custom has been established that no President shall receive a gift from any civil body such as a city council, a State legislature, or a foreign state. In addition to his salary, the President is provided with an "executive mansion," the "White House," which is furnished at the expense of the government.

The salary of the Vice-President was fixed at \$5,000 in 1789. This was changed several times before 1874 when it was made \$8,000 and increased to \$12,000 in 1909.

Salary of
the Vice-
President.

The maintenance of the Executive branch of the government costs less than \$350,000 each year. This includes the salaries of

Cost of the Executive branch of the government.

the President, of the Vice-President, and of the President's private secretary and clerks; the purchase of furniture, carpets, fuel; care of greenhouses and White House grounds; binding and printing done by order of the President. The English government votes about \$4,000,000 for the annual use of the royal household. The Czar of Russia receives \$6,500,000 annually in addition to revenues derived from 1,000,000 square miles of crown domains. The President of France receives \$231,600 annually. A private fund, known as the "contingent fund," is provided for our President each year by Congress. This varies in amount, \$25,000 having been appropriated in 1910, may be expended as the President dictates, and some of the purposes for which it is used doubtless include special entertainments given by the President to noted foreign visitors; and the employment of officials to carry on some investigation relative to National affairs whose salaries have not been otherwise provided for and whose negotiations should be secret.

Special fund for the President.

Inauguration Day.

One of the most notable of our civic festivals occurs on the fourth of March of each fourth year, when the President and the Vice-President are formally invested with their offices. Thousands of people go to Washington to witness the inaugural exercises. The Constitution makes no further provision than that the President take the oath of office and enter upon his duties at a prescribed time.

Before he enter on the execution of his office he shall take the following oath or affirmation:

Section 1, clause 7.

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability preserve, protect, and defend the Constitution of the United States."

It has been established by custom that the oath is administered by the Chief Justice of the United States at the east front of the Capitol, but the oath might be administered by any other magistrate having the power of administering oaths. The Vice-President takes the oath of office shortly before in the presence of the Senate of

the United States. After taking the oath, the President gives his inaugural address, which outlines the policy he purposes to carry out in the execution of his duties.

SUPPLEMENTARY QUESTIONS AND REFERENCES

1. For some of the problems connected with the Electoral Colleges in the history of elections, see Rev. of R's, 23 : 66-69.

2. What is the method used in counting the Electoral votes? Edmund Alton, *Among the Law Makers*, 88-89.

3. Do you agree with Mr. Bryce that the tendency is to select men for President who have not been prominent? Bryce, *American Commonwealth*, I, chapter 8.

4. Was the present President notable before his election? In what ways?

5. What were the chief causes for the success of his party?

6. How many Electoral votes were required for election? He received how many? Did he receive a majority of the popular votes?

7. How many Electors were there from your State? For whom did they vote? How is this majority in your State to be accounted for? Election of 1908, Rev. of R's, 39 : 34.

8. Would successful governors make good candidates for President? In what particulars do the offices resemble each other? Would you favor making the governor of your State President? Wilson, *Congressional Government*, 253, 254.

9. Under what conditions did Aaron Burr become Vice-President? Harrison, *This Country of Ours*, 82; Walker, *The Making of the Nation*, 185; Hart, *Formation of the Union*, 173.

10. Why was the election of John Quincy Adams of especial interest? What results followed? American History, p. 290; Burgess, *The Middle Period*, 140-141; Wilson, *Division and Reunion*, 18.

11. State the chief points connected with the "disputed election" of 1876. American History, p. 448; Wilson, *Division and Reunion*, 283-286; Johnston, *American Politics*, 233-237.

12. What is the meaning and significance of "amendment by usage"? Can you give other examples of amendment in this

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way? Bryce, *American Commonwealth*, I, chapter 34; Wilson, *Congressional Government*, 250.

13. Why was the "defence fund" of \$50,000,000 necessary? *Forum*, 25 : 267-275.

14. Interesting accounts of inaugural incidents and personages:

a. Inauguration Scenes and Incidents, *Cent. Mag.*, 35 : 733-740.

b. Davis, *The Inauguration*, *Harper's Mag.*, 95 : 337-355.

c. Inauguration Events of 1901, *Rev. of R's*, 23 : 405-406.

15. The "White House," *Indept.*, 55 : 2497-2507.

CHAPTER XXIV

POWERS AND DUTIES OF THE PRESIDENT

"UNITY of plan, activity, and decision are indispensable to success; and these can scarcely exist, except when a single magistrate is intrusted exclusively with the power." This is especially true in military affairs, hence the provision:

Story, On the Constitution, 327.

The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

Article II, section 2, clause 1. The President commander-in-chief.

Fears were expressed in the State conventions when considering the ratification of the Constitution lest the President might, under this provision, take charge of the army and navy in person, and as a dictator endanger the liberties of the Nation.

The monarch of Great Britain is commander-in-chief of the army and navy and militia; he has power to declare war, and in time of war can raise armies and navies and call out the militia. Parliament may check his action only by the refusal to vote supplies. The Emperor of Germany must obtain the consent of the Bundesrath, or upper house, before he may declare offensive war. The President of France may not declare war without the advice of the Chambers.

Military powers of other rulers.

The temporary suspension of the execution of a sentence is called a reprieve. By means of a reprieve, the

Reprieves.

President may gain time to look into the evidence more carefully in order to ascertain whether there is good reason for granting the requested pardon.

Complete release from a sentence is secured by a pardon. The power to pardon also carries with it the right of commuting the sentence. By this, a decree calling for imprisonment for life may be reduced to a fixed term of years, or a death penalty may be mitigated to imprisonment for life, etc.*

Section 2,
clause 2.
Treaties.

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur.

While the power to conclude treaties seems to be without restriction, it is implied that no treaty shall in any way interfere with the authority of the Constitution. The usual steps in the negotiation of treaties are as follows: (1) In time of peace they are conducted at the capital of the nation that begins the negotiation. If this is in Washington, the terms are considered by the Secretary of State and the minister of the other nation. If in a foreign capital, our minister acts under instructions sent him by the Secretary of State. (2) At times one or more special ministers are sent abroad for the purpose of negotiating for a treaty. (3) The treaty of peace at the close of a war is usually negotiated in some neutral country by special commissioners appointed by the belligerent nations.

In all cases, the President exercises general control over the negotiation and framing of treaties. After an agreement has been reached, the treaty is sent to the Senate. It is discussed in Executive Session, in which all matters pertaining to it are kept secret until a resolution of the

* President Harrison considered, during his term, 779 pardon cases, not including reprieves. Of these 527 were granted in whole or in part. President Cleveland acted on 907 such cases and granted 506 in whole or in part.

Senate removes the decree of secrecy. The Senate may approve, reject, or modify the terms. If amendments are made, they must be agreed to by the President and the other nation interested. When a treaty has been finally approved by the officials of both countries, duplicate copies of it are made in parchment. Both of these copies are signed by the chief officers of each country and the copies are then exchanged. This is called the "exchange of ratification." An official copy of the treaty is thus secured by each nation. The President then publishes the treaty, accompanied by a proclamation, in which it is declared to be a part of the law of the land.

He shall nominate, and by and with the advice and consent of the Senate, shall appoint Ambassadors, other public ministers and Consuls, Judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

Section 2,
clause 2.
Executive
power of
appoint-
ment.

The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

Section 2,
clause 3.

The methods of making appointments may be classified as follows:

(1) By the President with the consent of the Senate. In addition to the Ambassadors, other public ministers and Consuls and Judges of the Supreme Court who secure their offices in this way, there are a large number of other officers whose positions have been established by law who are appointed in the same manner. Among the most important of these officers are the heads of the executive departments, Treasurer of the United States, Internal Revenue, Inter-State Commerce Commission, Comptroller of the Currency, Superintendents of Mints, Com-

missioner of Patents, Commissioner of Pensions, Pension Agents, Collectors of Customs and Internal Revenue, Land Agents, Indian Agents, District Attorneys, Marshals, Territorial Governors, Postmasters whose salaries are \$1,000 and over, and all Military and Naval Officers, unless otherwise ordered by law.

(2) The President alone has the power of appointing the clerks in his office.

(3) The Judges appoint the officers of their own courts.

(4) The heads of the departments appoint their subordinates with the exception of some of the principal ones, whose appointment is secured through nomination by the President and confirmation by the Senate.

Action of
the Senate
on nomina-
tions.

All of the nominations sent by the President to the Senate are submitted to appropriate committees, as Postmasters to the Post-Office Committee, Ambassadors to the Committee on Foreign Affairs. The report of the committee is considered in executive or secret session and the nomination is then voted on. If the vote is adverse, the President must make another nomination.

Official
patronage.

In making his appointments, the President is largely dependent upon the advice of the head of that department under whose direction the officer will come, or upon the recommendation of the Representatives and Senators of his party from the State in which the office is located. This power of official patronage through which political assistants in a State may be rewarded with a Federal office has become so burdensome that many Congressmen complain of it and express the desire to be freed from its exactions.

Senatorial
Courtesy.

There has grown up an almost invariable custom, known as Senatorial Courtesy. By it, no appointment can be confirmed unless it meets the sanction of one or both of the Senators of the State in which the office is located, provided they are members of the party then in control of the Senate.

Removal
from office.

During the first forty years of our government, the views of the founders with regard to appointment and removal from the civil service were generally upheld. It was evi-

dently their intention that postmasters, collectors of the revenues, and officials of this nature were to be regarded as clerks or agents appointed to assist in carrying on the government. It was believed that these non-political offices should be filled without regard to any personal or political favor and that an officer might retain his position so long as he rendered faithful and efficient service. The rule advocated by Madison that the President might remove officials without the consent of the Senate was acknowledged by Congress. Under its operation, the entire number of removals from office between Washington's first administration and that of Jackson was only seventy-four, and five of the officers removed were defaulters.

It was during this period that William Henry Crawford, Secretary of the Treasury, hoping to pave the way for his nomination as a Presidential candidate, secured the passage in 1820 of the "four year tenure act" by which most of the officials of the National government who collected and paid out public money were to have their terms of office limited to four years. Thus was made possible the dangerous political device, known as "rotation in office." Webster, Clay, Calhoun and other statesmen spoke of the evils growing out of such a law, but it is still in force.

The "Spoils System," by which appointive offices are to be regarded as bribes or rewards for partisan services, was in use in Pennsylvania as early as 1790, and was introduced into New York by 1800,* but did it not become a permanent feature of our government until Jackson became President. The Whigs denounced this abuse of the civil service on the part of their opponents, and promised, if elected, to make the needed reforms. But the pressure upon them was too great, for no sooner were they given power by the election of 1840 than the sacrifice of Demo-

Rotation in
office.

Fourteenth
Report
United
States
Civil
Service
Com-
mission,
1896-97,
36.

The Spoils
System.

* Jackson and the Spoils System. See American History, 306.

cratic office-holders began. From this time down to 1883, whenever there was a change of administration, and especially when this meant the victory of a different political party, a "clean sweep" of the offices was thought to be necessary.

The evils of the system were indicated in the reports of special committees appointed by the different Congresses and numerous efforts at reform were made.*

The
Pendleton
Bill.

Finally, January 16, 1883, Congress passed the "Civil Service Law," which in general still governs the Federal service. This act established the United States Civil Service Commission, which was to be composed of three members, not more than two of whom should belong to the same political party. Other provisions of the act and the rules for carrying it out are: That there shall be open, competitive examinations for testing the fitness of the applicants for the public service in the departments at Washington, and in the custom-houses and post-offices where at least fifty officials are employed; that when a vacancy exists in any office in either of these classes it shall be filled from the three applicants graded highest in the list of those who have passed the competitive examination; that the final appointment shall not be made until after a trial of six months in the office. The law does not extend to positions outside the Executive branch of government, to positions for which appointment is made by the President with the consent of the Senate, or to places of unskilled labor. The President is given the power to direct the further extension of the "classified service," or positions which are to be filled by persons who have taken the examinations.†

The number of offices originally included under the act was about 14,000. The classified offices reported June

* See American History, pp. 445, 446, 462.

† See American History, p. 495.

30, 1910, numbered 235,000, and those which were unclassified or excepted 133,000. Some 75,000 of the unclassified offices were fourth-class post-offices in which a salary of less than \$1,000 is paid.

The ordinary civil service examinations are held twice each year at such places throughout the country as are designated by the Commission. Much has been accomplished since the law went into effect, but it is to be hoped that the system will at an early date be extended to the offices still unclassified,* and that the effective reform work already done in some of our States and cities † will become general throughout the country. Two other provisions of the act have also brought about a vast improvement in our civil service. One of these provides that official authority and influence shall not be used to coerce the political action of any citizen; and the other, that no person in the public service is under obligation to contribute to any political fund or to render any political service.

The President may remove an officer during the session of the Senate by nominating, and by and with the advice and consent of the Senate, appointing his successor. If the removal is made during the recess of Congress, the newly appointed officer receives his commission and enters upon his duties at once. If, when the Senate convenes, it refuses to confirm the appointment, the President makes another nomination. A most important order was issued July 27, 1897, which provides that "No removal shall be made from any position subject to competitive examina-

Rule for
removals.

Civil
Service
commission
Report,
1896-97,
24.

* During the years 1901-1902 there were included in the competitive system by order of President Roosevelt the rural free delivery service, permanent employees of the Census Office, and those additional employees necessary because of the war with Spain. In 1908 he extended the application of the merit rule so as to include 15,000 fourth-class postmasters. President Taft, in 1909, placed under the classified service, assistant postmasters in first- and second-class offices and all of their clerks.

† See pp. 30-31.

tion except for just cause and upon written charges filed with the head of the department or other appointing officer, and of which the accused shall have full notice and an opportunity to make defence." An act of 1866, still in force, provides that "No officer in the military or naval service shall, in time of peace, be dismissed from service except upon, or in pursuance of, the sentence of court-martial, to that effect or in commutation thereof."

Vacancies.

When an office becomes vacant during the recess of the Senate, the President appoints as in the case of removal during the recess. If the Senate fails to act on the nomination before the adjournment, the President must then issue a new commission to the same or another person.

**Article II,
section 3.
Duties of
the
President.**

He shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect of the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive Ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

**Enforce-
ment of the
laws.**

The most important duty of the President is to see that all laws passed by Congress are faithfully executed. Laws are useless unless they are enforced, and it is chiefly for the performance of this task that the Executive was originally created. It is not contemplated that this duty shall be performed by him in person, but through officials who are directly responsible to him. The United States marshals and their deputies exercise a wide influence in seeing that the laws are enforced. They usually act under an order from a United States court, but may, at times, act without such a writ. If necessary, the President may send the army and navy of the United States and

call out the militia of the States to overcome any resistance to Federal law.

By means of the annual message sent to Congress at the opening of the session, and special messages on particular occasions, the President is enabled to call attention to the legislative needs of the country. The plan of having a message read in each House by the clerk or secretary was introduced by President Jefferson. Presidents Washington and Adams addressed, in person, Congress assembled in joint session. Various reasons have been alleged for this change. It is said that President Jefferson was a poor speaker, and that he regarded the formal address as monarchical.

Presidential
messages.

The power of calling Congress together on extraordinary occasions has been exercised by a number of Presidents. The House of Representatives has never been called in special session alone. It has become the custom for the outgoing President to call the Senate in special session to act on the nominations of the Cabinet and other officials to be appointed by his successor immediately following the inauguration.

Special
sessions.

The act of receiving a minister from a foreign state is equivalent to the acknowledgment of that state as an independent nation. A minister may be rejected or dismissed because he is personally objectionable; because there is no desire to recognize his state as sovereign; or for the reason that unfriendly relations exist between the two nations. Should the executive of one nation send to the minister of another nation, during a period of strained relations, that minister's official papers, it would be regarded as equivalent to a declaration of war.

The
President
and foreign
ministers.

SUPPLEMENTARY QUESTIONS AND REFERENCES.

1. What have been some of the most important treaties entered into on the part of the United States?
2. For the treaty made at the close of the Spanish-American War, see Rev. of R's, 18 : 258, 371, 515, 631; 19 : 11, 261, 262, 266, 267.
3. In what ways may a treaty be abrogated? Harrison, *This Country of Ours*, 140, 141.
4. May a President have many of the privileges of private life?
 - a. The President at Home, Harper's Mag., 89 : 196-203.
 - b. Harrison, *This Country of Ours*, 177-180.
5. What are some of the official cares of the President?
 - a. Our Fellow Citizen of the White House, Cen. Mag., 53 : 645-664.
 - b. Harrison, *This Country of Ours*, 162-177.
6. Secure a copy of the last report of the Civil Service Commission and also Manual of Examinations for the Classified Service of the United States, Address, Civil Service Commission, Washington, D. C.
 - a. How many persons are included in the civil service of the United States?
 - b. What proportion of them are included in the classified service?
 - c. Does the Law of 1883 seem to have brought about satisfactory results?
 - d. What offices have been included in the extensions of the Civil Service Law?
 - e. What is the nature of the questions given in the examinations?
7. The Fifteenth Annual Report of the Commission (pp. 443-485) contains an account of the appointments and removals by the various Presidents from 1789 to 1883. Also an account of the growth of civil service reform in the States and cities of the United States, pp. 489-502.
8. May a man be fitted for political preferment and not be competent to pass an adequate examination? Atl. Mo., 65 : 443, 444.

9. For other articles on civil service reform see: *a.* The Civil Service as a Career, Forum, 20 : 120-128. *b.* Lyman J. Gage, The Civil Service and the Merit System, Forum, 27 : 705-712. *c.* Some Popular Objections to Civil Service Reform, Atl. Mo., 65 : 433-444; 671-678. *d.* "The Victor and The Spoils," Outlook, 93 : 850-851. *e.* "Civil Service Under President Roosevelt," Rev. of R's, 31 : 317-324. *f.* "Twenty-five Years of Civil Service Reform," Outlook, 84 : 799. *g.* Roosevelt, Present Status of Civil Service Reform, Atl. Mo., 75 : 239-246. *h.* The Purpose of Civil Service Reform, Forum, 30 : 608-619.

10. What was the Tenure of Office Act of 1867? Why did it become of great importance? Is it still in force? Wilson, Division and Reunion, 267, 270-271, 297. Harrison, This Country of Ours, 101-103.

11. What were the chief points discussed in the President's last annual message?

CHAPTER XXV

THE CABINET AND THE EXECUTIVE DEPARTMENTS

The
Cabinet.

THE President's Cabinet comprises the Secretary of State, Secretary of the Treasury, Secretary of War, Attorney-General, Postmaster-General, Secretary of the Navy, Secretary of the Interior, Secretary of Agriculture, and Secretary of Commerce and Labor. These constitute the chief officials in the nine executive departments of our government. It was taken for granted that such departments would be formed, for the Constitution declares the President may require the opinions in writing of the heads of the executive departments, and again, that Congress may vest the appointment of certain inferior officers in the heads of these departments. But there was no thought in the Constitutional Convention of creating an institution whose members should meet regularly with the President and consult on matters outside of their own departments. The Cabinet, as a body, has no legal position as a part of the government. The different departments have been created by acts of Congress and their duties are defined by law. The President is not obliged to take the advice of his Cabinet, although their views usually have weight with him. No official record is kept of the meetings.*

* The following is taken from a conversation with President Hayes, reported by C. E. Stevens in his *Sources of the Constitution of the United States*, pp. 167-168. President Hayes said that he and other Presidents had occasionally acted independently of Cabinet advice; that the custom of the past had varied; and that some Presidents had been more influenced by their Cabinets than others. He said that President Buchanan was much worried by his Cabinet because not strong enough to

In 1789 the first Congress created the Departments of State, War, and the Treasury, also the office of Attorney-General. President Washington's Cabinet consisted of the officials whom he appointed to fill these four positions. The Navy Department was added in 1798. Prior to this time naval affairs had been under control of the War Department. While a Post-Office Department was established in 1794, the Postmaster-General was not made a member of the Cabinet until 1829. In 1849, the Interior Department was created by grouping under it certain duties which had belonged to other departments. The Department of Agriculture was organized in 1862, and to it were assigned the duties appertaining to the agricultural interests of the country which had been performed through the State Department. It was not made a Cabinet position until 1889.

Formation
of the de-
partments.

In 1903, the Department of Commerce and Labor was authorized by an act of Congress. It has been advocated and it would seem desirable that a Department of Education should be formed.

Members of the Cabinet receive an annual salary of \$12,000.* The departments furnish an example of a splendidly organized system. That the business of each department may be more easily done, it is distributed among bureaus. The bureaus are again divided into divisions, and the divisions into rooms where the large number of clerks are to be found. At the head of each bureau is a commissioner, and of each division a chief. To complete the satisfactory working of the system, each clerk is made responsible to his chief of division; this chief, to his commissioner; and he, in turn, to the secretary, who is responsible to the President and to Congress.

Salaries
and general
organiza-
tion of the
depart-
ments.

insist on his own will, but that President Lincoln had decided on his Emancipation Proclamation without consulting his Cabinet, and read it over to them merely for suggestion and amendment. On two occasions, he (President Hayes) decided and carried out matters against the wishes of the secretary of a department affected.

* Mr. Knox receives \$8,000 owing to the fact that he was in the Senate when the increase in salary was made. See art. I, section 6, clause 2. Congress voted, in order to allow his appointment, that his salary was to be \$8,000.

THE DEPARTMENT OF STATE

Secretary
of State.

The Secretary of State is commonly called the head of the Cabinet. He is first in rank at the Cabinet table, and occupies the seat of dignity at the right of the President. Under the direction of the President, he conducts all negotiations relating to the foreign affairs of the Nation; carries on the correspondence with our representatives in other countries; and receives the representatives of foreign powers accredited to the United States, and presents them to the President. Through him, the President communicates with the Executives of the different States. He has charge of the treaties made with foreign powers, and negotiates new ones. He also has in his keeping the laws of the United States, and the great seal which he affixes to all Executive proclamations, commissions, and other official papers. He publishes the laws and resolutions of Congress, and issues and records passports. The Secretary of State has three assistant secretaries. There are seven bureaus in the department: Diplomatic, Consular, Indexes and Archives, Accounts, Trade Relations, Rolls and Library, Appointments and Citizenship.

Diplomatic
Bureau.

The United States, in common with other nations, sends representatives to the foreign capitals. They are the agents through whom the Secretary of State communicates and negotiates with other powers. Such affairs are conducted through the Diplomatic Bureau. Our representatives at the courts of England, France, Germany, Russia, Italy, Austria, Mexico, Brazil, Japan, and Turkey are known as Ambassadors.* They receive a salary of \$17,500 each. The social demands made upon our Ambassadors are great and they are also obliged to provide for their places of residence. The salaries paid are not sufficient to meet these necessary expenses and are small in comparison with those paid

* In 1893, Congress provided that our representative to a foreign country was to have the same rank as the representative of that country sent to the United States.

by the European nations to officers of the same rank. Thus, the English Ambassador at Washington receives a salary of \$32,500. Besides the English, the Germans, the Japanese, and some other nations have provided houses for their legations. Besides Ambassadors, the other diplomatic representatives are (1) ministers plenipotentiary, envoys extraordinary, and special commissioners; (2) ministers resident, and (3) *chargés d'affaires*.

A Consul is sent by the United States to each of the chief cities in the consular districts into which foreign countries are divided by our State Department. These Consuls, of which there are three grades, Consuls-General, Consuls, and Consular Agents, look after the commercial interests of the United States in those districts. They care for destitute American sailors and protect the interests of our citizens in foreign countries. In some of the non-Christian nations, such as China and Turkey, the Consuls also have jurisdiction over all criminal cases in which any American citizen may be a party. The importance of such a service to the country is self-evident. The appointment of these officials was formerly secured under party pressure. According to the rule adopted in 1906, all vacancies in the Consular service are hereafter to be filled by promotion for ability and efficiency in the service or by the appointment of those who have passed the civil service examination.

Consular
Bureau.

THE DEPARTMENT OF THE TREASURY

The Department of the Treasury is the most extensive and complex of the Executive Departments. In general, the Secretary of the Treasury has charge of the finances of the nation. He is required to prepare plans for the creation and improvement of the revenues and the public credit and to superintend the collection of the revenue. He gives orders for all moneys drawn from the Treasury in accordance with appropriations made by Congress, and

Secretary
of the
Treasury.

submits an annual report to Congress which contains an estimate of the probable receipts and expenditures of the government.

The six
auditors.

It is very important that the accounts of the government should be carefully scrutinized, and one of the six auditors connected with the Treasury Department must pass upon the accounts of every public officer who pays out money. Thus the auditor for the Treasury Department examines all accounts of salaries and incidental expenses of the office of the Secretary of the Treasury and all other offices under his immediate direction, such as the Treasurer and the Assistant Treasurers, Directors of the Mint and Assay Offices. There are also auditors for the War, Interior, Navy and Post-office Departments and one for the State (and other Departments).

The
Treasurer.

All of the money of the United States is under the care of the Treasurer. He receives and pays it out upon the warrant of the Secretary of the Treasury or a designated assistant, redeems the notes of the National banks, and manages the Independent Treasury System. This system renders the Treasury Department practically independent of the banks of the country. It includes the Treasury at Washington and sub-treasuries, each in charge of an Assistant Treasurer, at Boston, New York, Philadelphia, Baltimore, Cincinnati, Chicago, St. Louis, New Orleans, and San Francisco. While the greater part of the money belonging to the government is found in these places, about 200 National banks have also been designated as public depositories.

The
Bureau of
Engraving
and
Printing.

The Bureau of Engraving and Printing is one of the largest in the Department and employs about 1,600 people. It has been said that the products of this bureau, in the course of a single year, represent a sum equal in value to all the money in circulation in the United States;

for here the engraving of the plates and the printing of all the United States circulating notes, bonds, revenue stamps, and postage stamps is done.

The duties of the Comptroller of the Currency and Commissioner of Internal Revenue are discussed on pages 166 and 187.

The Life Saving Service, under a General Superintendent, is one of the most important branches of the Treasury Department. More than 2,000 men are employed in the 273 stations, located generally at danger points on the oceans and the great lakes. Out of the 6,000 lives imperilled in the year 1910 in the disasters on water, only 53 were lost. Of the 1,463 vessels of all kinds in peril, 1,407, with cargoes valued at over \$10,000,000, were rendered assistance by the life-savers. This service is maintained at an annual expenditure of a little over \$2,000,000. It has been estimated that 225,000 lives have been saved through this service since it was founded in 1848.

The Life
Saving
Service.

The Supervising Surgeon-General superintends the twenty-two marine hospitals where our sick sailors are cared for; conducts the quarantine service of the United States; and directs the laboratories for the investigation of the causes of contagious diseases.

Supervis-
ing
Surgeon-
General,

The Supervising Architect prepares the plans for government buildings and superintends their construction.

Supervis-
ing
Architect.

MILITARY AND NAVAL AFFAIRS

The President has never assumed command of the army in person, but has delegated his authority to officers whom he selects. The Secretary of War and Secretary of the Navy exercise this authority during the time of war. They, in turn, select other officers to assist them. The orders given by the President to any officer are strictly imperative.

Secretary
of War.

The Secretary of War has charge of the military affairs of the government under the direction of the President. He supervises all estimates of appropriations for the expenses of the department, for the purchase of all supplies for the army, and for its transportation. He has under his supervision the military academy at West Point; and all the National cemeteries. He has the oversight also of river and harbor improvements; and of the prevention of obstruction to navigation. All chiefs of the eleven bureaus are regular army officers.

Commis-
sary-
General.

Food is supplied the army by order of the Commissary-General, and medicine by order of the Surgeon-General; and arms are supplied by the Chief of Ordnance. The arms used are manufactured chiefly in the United States arsenals, which are under the control of the War Department. The arsenals at Springfield, Massachusetts, and Rock Island, Illinois, manufacture rifles and carbines; and that at West Troy, New York, cannon and mortars.

Chief of
Ordnance.

Corps of
Engineers.

The Corps of Engineers is in charge of the Chief of Engineers. The duties of these officials are to locate and construct fortifications, military bridges, and light-houses; and to carry on the work of the government for the improvement of harbors and navigable rivers.

Chief
Signal
Officer.

The Chief Signal Officer supervises all military signaling, such as communicating messages from distant points by the use of flags, the heliograph, flashlights, and similar devices. He is also charged with the supervision of the construction and operation of all military telegraph lines.

The United
States
military
academy.

The United States military academy at West Point was founded in 1802. The corps of cadets is made up of one cadet from each of the Congressional districts, one from each of the Territories and the District of Columbia, and one hundred from the United States at large. Prior to the year 1900 there were only ten cadets at large. The act of that year also provided that thirty

cadets were to be named by the President directly, and the remainder apportioned among the States. They all receive their appointments from the President, but it has become the custom for the Representatives and Delegates to select those from the Congressional districts and the Territories. An appointment may be made after a competitive examination, which is the usual way, or without such a test, according to the wishes of the Representative. The cadet must be between seventeen and twenty-two years of age. Each receives \$540 a year during the four years of his course. The course of study has for the principal subjects: mathematics, French, Spanish, drawing, tactics, physics, chemistry, geology, history, international and constitutional law, civil and military engineering, and the science of war. Upon graduation, the cadets are commissioned as second lieutenants in the United States army. In case there are more graduates than vacancies, those in excess are honorably discharged with the payment of one year's salary.

THE DEPARTMENT OF THE NAVY

The duties of the Secretary of the Navy pertain to the construction, manning, arming, equipping, and employment of war-vessels. The work is distributed among the following bureaus: navigation, yards and docks, equipment, ordnance, construction and repair, steam engineering, medicine and surgery, supplies and accounts. The chiefs of these bureaus are officers of the United States navy.

Secretary
of the
Navy.

The naval observatory at Washington is under the direction of the Secretary of the Navy; also the naval academy at Annapolis, established in 1846. One cadet is allowed in the naval academy for each member or delegate of the House of Representatives, one for the District of Columbia, and ten at large. Candidates for admission, at the time of their examination, must be between the ages of fifteen and twenty years. The nomination of a candidate to fill a vacancy is made upon recommendation of a Representative or Delegate, if made before July 1; but if no recommendation be made by that time, the Secretary of the Navy fills the vacancy by appointing an actual resident of the

The United
States
naval
academy.

district in which the vacancy exists. The President selects the candidates at large and the cadet for the District of Columbia. At the conclusion of the six years' course, two of which are spent at sea, the graduates are assigned in order of merit to the vacancies that may have occurred in the lower grades of the line of the navy and of the marine corps. Cadets who are not assigned to service after graduation are honorably discharged and are given \$500, the amount they have received each year of their course at the academy.

THE DEPARTMENT OF JUSTICE

Attorney-
General.

The Attorney-General is the legal adviser of the President and of the heads of the departments. He supervises the work of all the United States District Attorneys and Marshals, and is assisted by the Solicitor-General. Unless otherwise directed, all cases before the Supreme Court and the Court of Claims in which the United States is a party are argued by the Attorney-General and the Solicitor-General. The law officers of the various departments are also under the direction and control of the Attorney-General.

THE POST-OFFICE DEPARTMENT

Postmas-
ter-General.

The Postmaster-General is at the head of this department. He appoints all of the officers of the department, with the exception of the four Assistant Postmasters-General and 6,900 Postmasters, whose salaries are not less than \$1,000 and whose appointments are made by the President with the consent of the Senate. The Postmaster-General may, with the consent of the President, let contracts and make postal treaties with foreign governments.

Universal
Postal
Union

Since 1891, the United States has been a member of the Universal Postal Union. By this Union over fifty distinct powers became parties to an agreement by which uniform rates of post-

age were agreed upon and every facility for carrying mails in each country was extended to all the others.

There are four bureaus in the department, each in charge of an Assistant Postmaster-General. The appointment of postmasters; general management of the post-offices with their clerks and carriers is under the direction of the first Assistant. The second Assistant looks after the transportation of the mails; the third Assistant furnishes stamps and has charge of the finances; while the fourth Assistant among other duties superintends the divisions of rural delivery and dead letters.

Bureaus of
the Post-
Office De-
partment.

THE DEPARTMENT OF THE INTERIOR

The Interior Department, under the supervision of the Secretary of the Interior, is one of the most complex and important of the departments. There are two Assistant Secretaries in the department, while at the head of the other offices are six Commissioners and two Directors.

The
Secretary
of the
Interior.

The Commissioner of the General Land Office has charge of all the public lands of the government, and supervises the surveys, sales, and issuing of titles to this property. (See p. 283.)

Commis-
sioner of
the General
Land
Office.

The Commissioner of Education is the chief of the Bureau of Education. This bureau has charge of the collection of facts and statistics relating to the educational systems and to progress along educational lines in the several States and Territories, and also in foreign countries. The reports issued by the bureau are of great value to those interested in education. The Commissioner has advisory power only, except in Alaska. Here, he directs the management of the schools.

Commis-
sioner of
Education.

The Commissioner of Pensions supervises the examination and adjustment of all claims arising under the laws of Congress granting bounty land or pensions on account

Commis-
sioner of
Pensions.

of services in the army or navy during the time of war. That our government has not been ungrateful may be gathered from the report of the Commissioner for 1908. There were in that year 1,000,000 pensioners, to whom were paid approximately \$155,000,000.

Commis-
sioner of
Indian
Affairs.

Prior to 1871 the Indian tribes were treated as independent nations by the United States, but by a law of that year the general government was made the guardian of their interests. The Commissioner of Indian Affairs exercises a protecting care over these "wards" by directing the work of the Indian agents and of the superintendents of Indian schools.

Indian
reserva-
tions.

There are some 300,000 Indians on the 150 reservations which are situated in the various States and Territories. The lands of these reservations are held in common; that is, the ownership is tribal rather than individual. It is the policy of the government, however, to bring about the allotment of lands "in severalty," and thus to encourage the Indians to adopt an agricultural life. The Indians are only partially self-supporting. Some tribes derive an income from funds which are the proceeds derived from the sales and cessions of their lands. The National government holds this money in trust for them, and, by direct appropriation, supplies the money, food, and clothing necessary to complete their support. The expenditures for the needs of the Indians in 1902 were \$9,736,186. Over one-fourth of this sum was spent in their education in Indian schools, numbering nearly 300, which are under the direct control of the department.

Director of
the
Geological
Survey.

The Director of the Geological Survey has gathered much valuable information through the examination of the geological structure, mineral resources, and mineral products of the United States. He has charge, also, of the survey of the forest reserves.

THE DEPARTMENT OF AGRICULTURE

The duties of the Secretary of Agriculture are: "To acquire and diffuse among the people of the United States useful information on subjects connected with agriculture in the most comprehensive sense of that word." The activities of the department are along many lines, as indicated by the names of the bureaus and divisions.

Secretary
of
Agriculture

One of its most important services is performed in the Bureau of Animal Industry, which inspects the greater part of the meat products exported to European countries. The law providing for this inspection was necessary because of the claim in European markets that diseased meats were shipped from the United States. An inspection is also provided for live animals intended for exportation and of animals imported. Much scientific work is also devoted to the study of the various diseases of animals.

Bureau of
Animal
Industry.

In like manner, the Division of Vegetable Physiology and Pathology is engaged in the study of diseases affecting trees, and that of Entomology in the investigation of injurious insects.

Division of
Vegetable
Physiology

Continuous advancement is being made by the government toward placing the agricultural pursuits upon a more scientific basis. Thus, Congress, in 1901, recognized the value of the work done by changing the Divisions of Forestry, of Chemistry, and of Soils into bureaus. A Bureau of Plant Industry was also formed.

New
bureaus.

Over \$100,000 are expended each year by the Division of Seeds in the purchase of "rare and valuable" seeds, bulbs, and plants. These are distributed free throughout the country for the purpose of fostering the introduction of new and more valuable crops.

Division
of Seeds.

Another important interest is carried on by the Office of Public Road Inquiries. Here experiments are made

Public
Road
Inquiries.

with regard to the best system of road-making and the best materials to be used for that purpose.

Weather
Bureau.

Through the Weather Bureau daily forecasts and warnings of storms are sent to over 50,000 different points; and storm signals are displayed at 300 places on our coasts. By its operation, millions of dollars are saved each year to the agricultural and maritime interests of the country. A recent decree of the Post-Office Department renders the reports of the bureau of still greater service. Slips of paper having the storm, frost, or other warnings printed on them are to be distributed by the rural mail carriers at the various houses in the districts affected.

THE DEPARTMENT OF COMMERCE AND LABOR

Secretary
of
Commerce
and Labor.

Because of the nature of the subjects assigned to this new department, it will rapidly become one of the most important of the departments. At its head is a Secretary. Strictly speaking, there have been only two bureaus created for the department, the others having been transferred from the other departments. The new bureaus are those of Corporations and of Manufactures. The Commissioner of Corporations is expected to investigate the organization, conduct, and management of the business of corporations and other combinations engaged in interstate commerce, and to see that all anti-trust laws enacted by Congress are enforced. The duties of the Commissioner of Manufactures, as defined by the law, are "to foster, promote, and develop the various manufacturing industries of the United States and markets for the same at home and abroad by gathering, compiling, publishing, and supplying all available and useful information concerning such industries and such markets, and by such other methods and means as may be prescribed by the Secretary or provided by law."

The President is given the power to transfer to the department those bureaus in other departments which are engaged in scientific or statistical work, the Interstate Commerce Commission and the scientific divisions of the Agricultural Department being excepted. The offices which have been transferred are as follows: the Bureau of Statistics; Census and Immigration Bureaus; Bureau of Foreign Commerce of the State Department; the Bureau of Standards of Weights and Measures; Bureau of Navigation and the Shipping Commissioners; the Steamboat Inspection Service; Fish Commission; Coast and Geodetic Survey; and Lighthouse Board.

The Chief of the Bureau of Statistics collects and publishes the annual statistics on commerce.* These reports are of such a character that they are invaluable to the President in the preparation of his messages; and they are used extensively by the Heads of Departments, members of Congress, and the public. Tariff laws, special legislation for particular industries, and all international trade treaties are also based on these compilations. The greatest demand is for the Annual Statistical Abstract, which presents in a condensed form the history of the commerce of the United States for a number of preceding years.

The Chief
of the
Bureau of
Statistics.

The Commissioner of Immigration superintends the work done by the inspectors of immigrants.† Every immigrant must undergo a rigid examination in order to de-

The Com-
missioner
of Immi-
gration.

* Monthly reports are made by our Consuls on improvements in agricultural and manufacturing processes. These reports also give information regarding good markets for our products and of the best markets in which to purchase foreign products. Among scores of similar subjects, our Consuls reported during one year on the following: Agricultural Machines in Russia; American Apples in France; American Boots and Shoes in New Zealand; Radium Industry; Wages and Cost of Living in Germany.

† During the year ending June 30, 1910, there arrived in the United States 1,041,570 immigrant aliens. This was an excess of 289,784 over the preceding year; 191,049 could neither read nor write; 223,453 were Italians; 128,348 were Polish; and the other chief nationalities in order of numbers were Hebrew, German, English, Scandinavian; 24,270 were denied admission at the ports; 15,927 of these were thought likely to become a public charge; 3,033 had some communicable disease; and 1,786 were contract laborers.

termine whether he belongs to any of the prohibited classes. (See page 175.) It is also ascertained whether he is able to read and write and whether he has \$50, or, if less, how much; 86 per cent. of all the aliens coming in 1910 had less than \$50 each. Each immigrant pays a tax of four dollars, which sum is used to partially defray the expenses of the bureau.

Additional
commissions and
boards.

There have also been created at different times commissions and boards having executive functions, but which are not connected with any of the departments. They are as follows: the Civil Service Commission, described on p. 238; the Interstate Commerce Commission, described on p. 177; the Board on Geographic Names, and the Industrial Commission. Special officials and boards are in charge of the National Museum, the Bureau of Ethnology, the Library of Congress, the Government Printing Office, and the Smithsonian Institution. The Government Printing Office was established in 1861. Facilities for publishing the Congressional debates, reports of the executive departments, etc., have been greatly multiplied from year to year. Some 15,000 copies of the President's annual message and 12,000 copies of the abridgment of the message, 40,000 copies of the report of the Commissioner of Education, 54,000 of the Congressional Directory, and other reports in similar quantities are printed each year for free distribution. A large extension of the Government Printing Office was authorized in 1900 and \$2,429,000 were appropriated for that purpose. It is said that this extension will constitute it the largest and best equipped printing establishment in the world.

In 1829, James Smithson, an English scientist, gave some \$500,000 to the United States for the purpose of founding at Washington, "an establishment for the increase and diffusion of knowledge among men." The Smithsonian Institution is notable because of its Museum, which offers scientists such excellent opportunities for original investigation.

SUPPLEMENTARY QUESTIONS AND REFERENCES

1. Does the President select the members of his Cabinet from among former members of Congress? Would this be desirable?

2. Have the members of the Cabinet ever been allowed to appear before Congress in the interests of their own departments? Would this be desirable? Wilson, *Congressional Government*, 257; Walker, *The Making of the Nation*, 92; Bryce, *American Commonwealth*, I, chapter 9; *Atl. Mo.*, 65 : 771-772.

3. Who are now the heads of the executive departments? Were they prominent in National affairs before they were selected for these positions?

4. What reasons can you give for the belief that other departments should be added to the Cabinet?

5. Give a list of the Presidents who have been Secretaries of State. How do you account for this policy in the first years of our government, and not at a later time? Name some of the other prominent Secretaries of State.

6. Who are our Ambassadors? Can you give the name of any foreign Ambassadors in Washington? See *Congressional Directory*.

7. The methods by which our ministers are selected, take possession of their offices, and are presented at foreign courts are described in Curtis, *The United States and Foreign Powers*, 15-21.

8. The duties of ministers. Curtis, *The United States and Foreign Powers*, 22-26.

9. Ought our Ambassadors to be changed every four years? Our Need of a Permanent Diplomatic Service, *Forum*, 25 : 702-711.

10. Are our Ambassadors given adequate salaries? Diplomatic Pay and Clothes, *Forum*, 27 : 24-32; Curtis, *The United States and Foreign Powers*, 13-14.

11. From a consular report learn what the duties of a Consul are. Curtis, *The United States and Foreign Powers*, 30-33.

12. What is the Great Seal of the United States, and what is its use? Harrison, *This Country of Ours*, 199-200.

13. What is the particular work of the Marine Department;

of the Steam-boat Inspection Service; of the Marine Hospital? Lyman J. Gage, Organization of the Treasury Department, *Cosmop.*, 25 : 355-365.

14. What is the work of the Bureau of Engraving and Printing? Spofford, The Government as a Great Publisher, *Forum*, 19 : 338-349.

15. What is the extent of our Merchant Marine? Should it be increased? Statistical Abstract of the United States, 1900, 437-450.

16. From the last report of the Bureau of Statistics find answers for the following: The expenditures of the government in the different departments; in what branches there was a large increase in 1899; value of merchandise imported and exported; amounts of corn, wheat, cotton, wool, and iron produced, imported, and exported; the chief nationalities of immigrants, and comparison of the total number with previous years.

17. Are our coasts well defended? Harrison, This Country of Ours, 225.

18. For illustrated articles on Education at West Point and Annapolis, see *Outlook*, 59 : 825-837; 839-849.

19. How does the amount of money paid for pensions by the United States compare with that of other nations? *Forum*, 12 : 645-651.

20. Has the pension policy of our government been a wise one? *N. Am. Rev.*, 153 : 205-214; 156 : 416-431; 618-630; *Cen. Mag.*, 42 : 179-188; 790-792; 46 : 135-140; *Forum*, 12 : 423-432; 15 : 377-386; 439-451; 522-540.

21. For accounts of the new Congressional Library, see *Cen. Mag.*, 53 : 682-711; *Atl. Mo.*, 85 : 145-158; *Cosmop.*, 23 : 10-20.

CHAPTER XXVI

THE JUDICIARY

ALEXANDER HAMILTON characterized the lack of a judiciary as the crowning defect of government under the Confederation. "Laws," he wrote, "are a dead letter without courts to expound and define their true meaning and operation." Judicial powers were vested in the Continental Congress or in the agents of that body. The conviction that the Federal Judiciary should constitute one of three independent parts of the government was general in the Constitutional Convention, and after a brief discussion, this was provided for as follows:

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

Congress carried out the provisions of this section by passing the judiciary act of 1789. This act provided that the Supreme Court should consist of a Chief Justice and five Associates. District Courts and Circuit Courts were also created by it and their functions as inferior courts were defined.

The Supreme Court, at present, consists of the Chief Justice and eight Associate Justices. It holds one session annually, at Washington, beginning on the second Monday in October and continuing until about May 1.

Lack of a judiciary under the Confederation. The Federalist, No. 22.

Article III, section 1.

Judiciary act of 1789.

The Supreme Court.

Circuit
Courts of
Appeals.

By the law of 1891, nine Circuit Courts of Appeals were established for each of which a Circuit Judge was provided. The Circuit Courts of Appeals consist of three judges each, any two constituting a quorum. The judges eligible to sit in one of these courts are: the Supreme Court Judge assigned to the Circuit, the Circuit Judges, and the District Judges of that circuit.

District
Courts.

The territory of the United States has been divided into judicial districts, none of them crossing State lines and each having a District Court.

Congres-
sional
Directory,
1911.

New York and Texas have each four districts; Alabama, Pennsylvania, and Tennessee three each; Arkansas, California, Florida, Georgia, Illinois, Iowa, Kentucky, Louisiana, Mississippi, Michigan, Missouri, North Carolina, Ohio, Oklahoma, Virginia, Washington, Wisconsin, and West Virginia two each; and the remaining States have each a single district. New Mexico constitutes a district, likewise Alaska, Arizona, and Hawaii. Generally there is a judge for each district, but a single judge is at times assigned to two districts.

United
States
District
Attorneys
and
Marshals.

A District Attorney and Marshal are appointed by the President for each District. The United States District Attorney is required to prosecute all persons accused of the violation of Federal law and to appear as defendant in cases brought against the government of the United States in his district. The United States Marshals, in general, perform duties connected with the enforcement of the Federal laws which resemble the duties of sheriffs under State laws.

Circuit
Courts.

Established by the act of 1789, each Circuit Court was, at first, presided over by a Justice of the Supreme Court and a District Judge. The policy was to have as many Circuit Courts as there were Justices of the Supreme Court. It was not until 1869 that a Circuit Judge was provided for each of the nine circuits. By an act of 1911, in response to the agitation for a simplified Federal judicial system and greater expedition in the hearing of cases,

the Circuit Courts were abandoned, judges of these courts were transferred to the Circuit Courts of Appeals.

The Court of Claims was established in 1855 and consists of a Chief Justice and four Associates. It holds an annual session in Washington.

Court of
Claims.

That the Judiciary should be independent of parties and of other influences cannot be questioned. Hence the wisdom of the provision that United States Judges shall hold their offices during good behavior and shall receive a compensation for their services which shall not be diminished during their continuance in office. The Constitution states that Judges of the Supreme Court shall be appointed by the President with the consent of the Senate. It has been interpreted that the Judges of the inferior courts are to receive their appointments in like manner.

Terms and
salaries of
Judges

By an act of Congress of 1911, the salary of the Chief Justice was fixed at \$15,000 per annum; that of Associate Justices, \$14,500; and District Judges, \$6,000. There is an allowance for expenses of judges not to exceed \$10 a day. Any Judge who has reached the age of seventy years, and has served ten years, may retire on full pay for life.

We are next to consider the jurisdiction of the several courts that have been described.

The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;—to all cases affecting Ambassadors, other public ministers and Consuls;—to all cases of admiralty and maritime jurisdiction;—to controversies to which the United States shall be a party;—to controversies between two or more States;—between a State and citizens of another State;—between citizens of different States;—between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign states, citizens or subjects.

Section 2,
clause 1.

In all cases affecting Ambassadors, other public ministers and Consuls, and those in which a State shall be party,

Section 2,
clause 2.

the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

Speaking of the position of the Supreme Court in our judicial system, Mr. Bryce says:

Bryce,
American
Common-
wealth, I,
237-240.

"No feature of the government of the United States has awakened so much curiosity in the European mind, caused so much discussion, received so much admiration and been more frequently misunderstood, than the duties assigned to the Supreme Court and the functions which it discharges in guarding the ark of the Constitution."

Extent of
the judicial
power.

A careful consideration of clause 1 of this section shows the wide extent of the powers of the United States Courts. It shows too the desirability of having all such cases under their jurisdiction rather than under the authority of the State courts. This jurisdiction applies to two classes of cases. One class has to do with the nature of the questions involved, as in all those cases arising out of the Constitution, laws, and treaties of the United States, and admiralty and maritime cases. The other class of cases arises because of the parties to the suits, as, Ambassadors, Consuls, two or more States, citizens of different States, etc.

State as
plaintiff.
The Fed-
eralist, 81.

The provisions here made, that the judicial power shall extend to controversies between a State and citizens of another State, and between a State and the citizens or subjects of a foreign state, were doubtless intended to apply only to suits in which a State should attempt, as plaintiff, to secure justice in a Federal Court. But, contrary to expectation, suits were early brought *against* some of the States by citizens of other States to enforce the payment of debts and other claims. In the notable case of *Chisholm vs. Georgia* in 1793, Chisholm, a citizen of North Carolina, began action against the State of Georgia in the Supreme Court of the United States. That court interpreted the clause as applying to cases in which a State is defendant, as well

as to those in which it is plaintiff. The decision was received with disfavor by the States, and Congress proposed the XIth Amendment to the Constitution, which was ratified in 1798 and reads as follows:

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States, by citizens of another State, or by citizens or subjects of any foreign state.

Amend-
ment XI.

The Supreme Court has original jurisdiction in "all cases affecting Ambassadors, other public ministers, and Consuls, and those in which a State shall be a party." By original jurisdiction is meant that these cases may be begun in the Supreme Court. Other cases come to the Supreme Court from the inferior United States Courts or from the Supreme Courts of the States and Territories by appeal or by writ of error.* In these cases the Supreme Court is said to have appellate jurisdiction.

Original
and
appellate
jurisdiction.

It is difficult in brief space to define minutely the province of each court. The following accounts, therefore, give only a general description.

The Circuit Courts of Appeals are given final jurisdiction in certain cases appealed to them from the District, such as those arising under the patent, revenue, and criminal laws, as well as admiralty and other cases in which the opposing parties to a suit are an alien and a citizen, or are citizens of different States. The Supreme Court has thus been partially relieved from an over-crowded docket. But jurisdiction in these cases may be assumed by the Supreme Court if it desires to do so.

Jurisdic-
tion of
inferior
courts.
Circuit
Courts of
Appeals.
26 Statutes
at Large,
828.

The jurisdiction of the District Courts embraces criminal cases, admiralty cases, bankruptcy proceedings, suits for penalties, and the like. The jurisdiction of cases formerly in the Circuit Courts was transferred to the District Courts when the Circuit Courts were discontinued. These courts had original jurisdic-

District
Courts.

* A writ of error is defined to be "a process which removes the record of one court to the possession of another court, and enables the latter to inspect the proceedings, and give such judgment as its own opinion of the law and justice of the case may warrant."

tion in patent and copyright cases; in cases brought by the United States against national banks; and in ordinary civil actions, where the amount involved, exclusive of interest and costs, was at least \$2,000. Where the amount is less, the case must be tried in a State court.

Court of
Claims, 10
Statutes at
Large, 612.

The Court of Claims is composed of a Chief Justice and four Associate Justices. Claims against the Federal government, pension claims excepted, are heard by this court. The judgments of the Court are referred to Congress and appropriations are made to cover them.

Territorial
Courts.

The Courts of the District of Columbia and of the Territories are under the control of Congress, but are not Federal Courts. Judges of these courts are appointed in the same manner as other United States Judges, but their appointment is only for a term of four years.

The right
of jury
trial.

The right of trial by jury in all criminal cases had been insisted upon by Englishmen for centuries prior to the formation of our Constitution. There were two branches to the system, the grand and the petit juries. Each performed the same duties as they do now. The Constitution provides that

Section 2,
clause 3.

The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the State where the said crime shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

This clause was attacked by the opponents of the Constitution in the State conventions. It was believed that the Constitution did not furnish adequate safeguards against unjust prosecutions. Because of this agitation, Congress, in its first session, proposed the following Amendments, which were duly ratified by the several States:

Amend-
ment V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be sub-

ject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime may have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

Amend-
ment VI.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

Amend-
ment VII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amend-
ment VIII

Authorities have had difficulty in giving an exact definition of an infamous crime. That given by Judge Cooley is the most satisfactory. He says: "But the punishment of the penitentiary must always be deemed infamous, and so must any punishment that involves the loss of civil or political privileges."

Infamous
crimes.
Cooley,
Principles
of Consti-
tutional
Law, 291.

A grand jury consists of from twelve to twenty-three men. "They are sworn to inquire and present all offences committed against the authority of the National government within the State or district for which they are impanelled, or elsewhere within the jurisdiction of the National government. They sit in secret and no accusation can be made by them without the concurrence of at least twelve. After hearing the evidence, if the grand jury

Grand
Jury.

concludes that the accusation is not true they write on the back of the bill, "not a true bill" or "not found." The accused, if held in custody, is then given his freedom, but he may again be indicted by another grand jury. If the grand jury decides that the accusation is true they then write on the back of the bill, "a true bill" or "found." The indicted person must be held to answer the charges made against him.*

Rights of
the
accused.

The accused must be given a public and speedy trial before an impartial jury, known as the petit jury, consisting of twelve men from the district wherein the crime was committed. The decision must be unanimous before a verdict can be rendered. The accused is given a copy of the indictment in which the nature of the accusation is clearly set forth and is granted time in which to prepare for his defence. Equally just and significant are the provisions that he shall be confronted by the witnesses against him; may compel the attendance of witnesses in his favor; and may employ counsel for his defence. In case he is not able to pay for his own counsel the judge appoints one whose services are paid for out of the public treasury. If the verdict has been rendered by a jury and the judgment pronounced, the accused cannot be again brought to trial on the same charge.

Right of
eminent
domain.

The right of "eminent domain" is properly vested in the government. By this right private property may be taken for public uses after the payment of a just price. The rights guaranteed the accused by these Amendments are chiefly derived from the principles of the common law. (See p. 95.)

Treason
under the
common
law.

Treason has always been regarded as one of the worst of offences and is punished by the severest penalties. Under the early common law, it rested with the judges to declare what acts

* For the grand jury system of some States and definition of *indictment* and *presentment*, consult p. 63.

were treasonable. Judges became mere tools in the hands of despotic rulers and were induced to declare certain conduct treasonable which had not previously been so regarded. In the time of Edward III, the English Parliament attempted to prohibit these abuses by giving a definition of treason. The substance of two of the five articles of this statute were made a part of our Constitution in the following:

Treason against the United States shall consist only in levying war against them or in adhering to their enemies, giving them aid or comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Article III,
section 3,
clause 1.
Definition
of treason

The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attainted.

Section 3,
clause 2.

Parties to a conspiracy cannot be considered traitors until they have actually assembled men for the carrying out by force of some treasonable purpose. "All persons who then perform any act, however minute, or however remote from the scene of action, and who are actually leagued in the general conspiracy, are to be considered traitors. And one is adherent to the enemies of the country, and giving them aid and comfort, when he supplies them with intelligence, furnishes them with provisions or arms, treacherously surrenders to them a fortress and the like."

Who are
traitors.

Cooley,
Principles
of Constitutional Law,
288.

SUPPLEMENTARY QUESTIONS AND REFERENCES

1. What are the names of the members of the Supreme Court at present? See Congressional Directory.
2. How large is the district in which your home is located? Who are the judges? See Congressional Directory.
3. Under what conditions may a case be appealed from the Supreme Court of the State to the United States Supreme Court? Bryce, American Commonwealth, I, 232-234.

4. How is the fact, that conflicts between the authority of the Federal and the State Courts do not arise, accounted for? Bryce, I, 238.

5. Are the United States Courts influenced in their decisions by politics? Bryce, I, 265-267.

6. Describe the influence of John Marshall as Chief Justice.

a. John Marshall, American Statesman Series, chapters 10 and 11.

b. Bryce, I, 267.

c. Lodge, John Marshall, Statesman, N. Am. Rev., 172 : 191-204.

d. John Marshall, Atl. Mo., 87 : 328-341.

7. Show how the development of our Constitution by interpretation has been brought about. Bryce, I, 376-385.

CHAPTER XXVII

RELATIONS BETWEEN THE STATES AND BETWEEN FEDERAL GOVERNMENT AND THE STATES

Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

Article IV,
section 1.

The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States.

Section 2,
clause 1.

A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

Section 2,
clause 2.

No person held to service or labor in one State, under the laws thereof, escaping into another, shall in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

Section 2,
clause 3.

The Constitution was intended to form a more complete bond between the States. This union would be weakened and give rise to endless litigation and injustice were the legislative acts, records, and proceedings of the courts of one State not given the same credit in every State as in that where they originated. Legislative acts are made authentic by having the State seal affixed. The record of a court is "proved" through the signature of the clerk and judge and affixing of the seal of the court where there is one.

State
records.

Fugitive
criminals.

Extradition is the delivering up to justice of fugitive criminals by the authorities of one State or country to those of another. The necessity for such a regulation is evident, for a criminal from justice might easily escape into a neighboring State. "The responsibility of determining whether the person demanded is a fugitive from the justice of the demanding State rests with the Executive of the State or Territory in which the accused is found. The case of the demanding State should be presented in some official form; either by official copy of an indictment, or by a complaint under oath. The right to demand surrender and the obligation to comply with the demand extend to all crimes and offences made punishable by the laws of the State where the offence was committed; but if the Governor of the State in which the accused is found refuses to surrender him he cannot, through the judiciary, be compelled to deliver him up." The privilege of extradition between nations is secured by treaty relations.

Justice
Miller on
the Consti-
tution, 637,
638.

Section 4.
Protection
of the
States by
the Na-
tional gov-
ernment.

The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.

It was natural that the Constitution should guarantee to the States the form of government with which the framers of that instrument were most familiar and which would be most in keeping with the Federal union they hoped to see established.

Protection
against
invasion.

Any protection afforded a State against invasion signifies the protection of the Nation. Since the States are forbidden to keep troops and ships of war in time of peace, they must, if invaded, be dependent upon the general government. In such a case the President has been authorized by law to use the army and navy of the United

States, or call the militia into service, to furnish the needed protection, even if the State has not applied for aid.

Each State is supposed to possess the power of enforcing its own laws, and is of right protected in the exercise of this prerogative. In case of an insurrection, the State militia is sent by order of the Governor to suppress it. But should they fail to restore order, the legislature, or the executive (when the legislature cannot be convened), applies to the President for military aid. If the uprising has interfered in any way with the carrying out of the laws of the Nation, the President may, at his discretion, send troops to suppress it without having been asked to do so by the legislature or the Governor. There was a notable illustration of this point during the time of the Chicago riots, in July, 1894.*

Protection
against
domestic
violence.

* See American History, p. 493.

CHAPTER XXVIII

TERRITORIES AND PUBLIC LANDS

The
Northwest
Territory.

WHEN the Constitution was adopted, the National government possessed a vast tract of land lying north of the Ohio River and extending to the Great Lakes and the Mississippi River.* This region had been owned by several of the original States (*viz.*, Massachusetts, Connecticut, New York, and Virginia); but their claims were conflicting and each finally agreed to cede its portion to the general government. This occurred during the period of the Confederacy. Although entirely without legal authority to do so under the Articles of Confederation, Congress established a Territorial government for the "Territory of the United States lying north and west of the Ohio River," by the enactment of the Ordinance of 1787. The first Congress under the Constitution reenacted this Ordinance, and thus entered at once upon the government that it has since maintained over the Territories of the United States. Congress exercises this power by virtue of the authority expressly delegated to it in the following clause.

The power
to govern
Territories.

Article IV,
section 3,
clause 2.

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

First the Northwest Territory, and later the various parts of it (Ohio, Indiana, etc.), were governed as Ter-

* For a fuller treatment of the topics that follow, see American History, 184-190.

ritories; afterwards, when the Louisiana purchase, the Mexican cession, and the Oregon region were acquired, Territories were organized there. The Territorial form of government was an intermediate stage preparatory to the admission of new regions as States.

The government of Hawaii corresponds in most respects to that which existed almost since the foundation of the government in the continental Territories. The executive is a governor appointed for four years by the President, who also appoints a Secretary. The administrative officers—Treasurer, Auditor, Attorney-General, Superintendent of Instruction, and others—are appointed by the Governor and Senate of Hawaii. The judiciary consists of judges appointed by the President. The Territorial legislature has two houses, the Senate and the House of Representatives, the members of which are elected, from districts, by popular vote. The legislature resembles a State legislature in its control of Territorial affairs; but its laws may be modified or entirely annulled by Congress. In this way Congress maintains its complete authority over the internal policy of the Territory. The people have no voice in National affairs, but they elect a delegate to Congress, who may debate but not vote.

Territorial
form of
government.

Alaska is regarded as an "unorganized territory." The executive officers are the Governor, Attorney-General, and Surveyor-General, the last acting as Secretary of the Territory. The judiciary consists of three district judges. All these officers are appointed by the President and Senate. There is no legislature. Congress enacted, in 1900, a complete code of civil laws for Alaska.

Alaska.

In the government of Porto Rico, the President appoints the governor and administrative officers. The lower house of the legislature is elected, while a part of the members of the upper house are elected and a part are appointed by the President.

Porto
Rico.

The government of the Philippine Islands resembles that of Porto Rico. There is a Commission of nine members: the Governor, four heads of departments, (Americans) and four Fili-

The Phil-
ippines.

pinos. All are appointed by the President, with the consent of the Senate. This Commission constitutes the upper house of the legislative body; the lower house or assembly is elected from certain districts of the Islands where the people are considered capable of political action. Qualifications for voting include both property and literary tests, either English or Spanish being accepted in the latter case.

The entire group of islands is divided into provinces. In some of these the people exercise local self-government; in others there is military government under the United States army. In many cities the government is similar to that in American cities.

The United States owns scattered islands, Tutuila of the Samoan group,* Guam, Midway, Wake, and others, which have no regularly organized governments.

The
Panama
Canal Zone.

The Panama Canal Zone † is governed by the Isthmian Canal Commission, consisting of seven men appointed by the President. The Commission has charge of the construction of the canal, and to one of the Commissioners is given the duty of governing the Zone. The Commission is subordinate to the Department of War at Washington.

Cuba.

Cuba is not a possession of the United States but may be regarded as a dependency. Our government is given the right (by treaty with Cuba) to take control of Cuban affairs under certain circumstances, as when foreign troubles, disorder in Cuba, or financial difficulties make it necessary. This was done in the years 1906-1909. Cuba is a Republic in government.

The power
to acquire
territory.

By what authority has the United States acquired the territory that was not in its possession in 1789? This question, arising for the first time in connection with the Louisiana purchase, was of vital importance. It has been argued that section 3 of Article IV applies only to the territory belonging to the United States at the time of the adoption of the Constitution; and that, consequently, acquisitions were made not by virtue of any power delegated to the United States in the Constitution, but rather by virtue of the fact that the United States is a nation,

* See American History, 504.

† *Ibid.*, 516.

and so entitled to exercise this sovereign power as any other nation might. But it is not necessary to make this contention. There is the highest authority, the Supreme Court speaking through its greatest Chief Justice, for holding a different view. This is found in a decision of Chief Justice Marshall, who said, "The Constitution confers absolutely on the government of the Union the powers of making war and of making treaties; consequently, that government possesses the power of acquiring territory, either by conquest or by treaty."

The circumstances attending the acquisition of Porto Rico and the Philippines, and the peculiar character of their inhabitants, gave rise to grave Constitutional problems concerning their government by the United States. Similar questions had previously arisen in relation to the government of the Territories, especially questions involving the power of Congress over slavery.* After the Spanish war the power of the Federal government in the new acquisitions was determined by a series of decisions rendered by the Supreme Court in the "Insular Cases." In brief, the court decided that our Territories and possessions "belong to" but are not a "part of" the United States. Their inhabitants are not citizens of the United States until made so by act of Congress. Congress is unrestricted in its power of legislating for the Territories and possessions by provisions of the Constitution. For example, the provision that all duties shall be uniform throughout the United States does not apply to the insular possessions. Tariffs have been levied against goods coming into the United States from them. So Congress has practically a free hand in determining what laws and forms of government are best adapted to the people of our possessions. Its policy so far has been to allow self-government to the extent that the people seemed ready for it.

The power
of Congress
in
governing
Territories
and posses-
sions.

* See American History, 333, 360, 362.

The
admission
of Terri-
tories to
statehood

We have so far considered the Territories as in a state of greater or less dependence upon the National government. Under what conditions and in what way may these relations be changed? The admission of Territories into the Union as States was contemplated before the adoption of the Constitution, for the Ordinance of 1787 provided that the Northwest Territory should be divided into States, and these were guaranteed admission into the Union. Doubtless, the framers of the Constitution regarded statehood as the ultimate destiny of all territory then belonging to the United States. This idea became the policy of the government in its treatment of the Louisiana purchase and the Mexican cession. In the case of Alaska, and especially since the addition of the insular possessions, questions have arisen regarding the policy that is to be pursued. Are Hawaii, Porto Rico, and the Philippines ever to be erected into States? Or, are they ultimately to be granted their independence, if they desire it?

That the power to admit States belongs exclusively to Congress is evident from the language of the Constitution.

Article IV.
section 3,
clause 1.

New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor shall any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned, as well as of the Congress.

The power
of
Congress.

A Territory cannot claim admission as a Constitutional right if Congress finds obstacles that seem to it insuperable. Nor is there any rule as to the population that a Territory should have before admission. Congress has often been guided in the exercise of this power by political considerations alone.

After a Territory has applied for admission into the Union, two different methods have been pursued to complete the proc-

ess. (1) Congress has passed an "enabling act"; the Territory then framed a constitution, which was submitted to Congress for approval. (2) The Territory has frequently taken the first step by electing a convention which framed a constitution; with this in hand, the Territory then applied to Congress for admission. In either case, before giving its approval to the admission of a State, Congress must see that the constitution submitted contains nothing that is inconsistent with a republican form of government. (See p. 272.) In addition, Congress has sometimes required the Territory to conform to certain conditions respecting boundaries, lands, and other matters.

Methods of
admitting
States.

The "territory and other property belonging to the United States" (see p. 274) includes more than the governmental divisions called "Territories" and "possessions." The United States owns vast tracts of land that are situated not only in these Territories but also in many of the States. This land is regarded as property or public domain, and its disposition falls within the power of Congress under the clause a part of which has just been quoted.

Western
cessions.

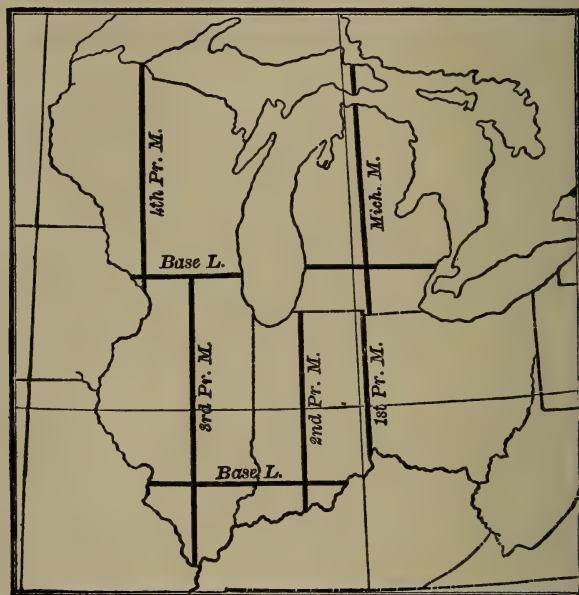
In the years following the adoption of the Constitution, North Carolina, South Carolina, and Georgia followed the example of the Northern States and ceded to the general government their claims upon territory extending westward to the Mississippi River. This was the region where the States of Tennessee, Alabama, and Mississippi have since been formed. As the United States came into possession of the western territory, all unoccupied lands * (except certain portions reserved by the original States for their own use) became the property of the National government. The same is true of all unoccupied lands in the Louisiana purchase and in all subsequent acquisitions of territory. So that the United States has become the possessor of many millions of acres. Its

* By this is meant lands not then in the possession of Europeans. The Indian claim to the lands was partially recognized by the government; it acquired full title from the different tribes by purchase or by conquest. See American History, 100, 308, 473-474.

policy in dealing with this vast property has been of the greatest consequence in our history.

Government
survey.

In the thirteen original States there was no uniform system of land survey, but each tract of land was surveyed as necessity required, generally after settlement had been made upon it. The tracts were of very irregu-

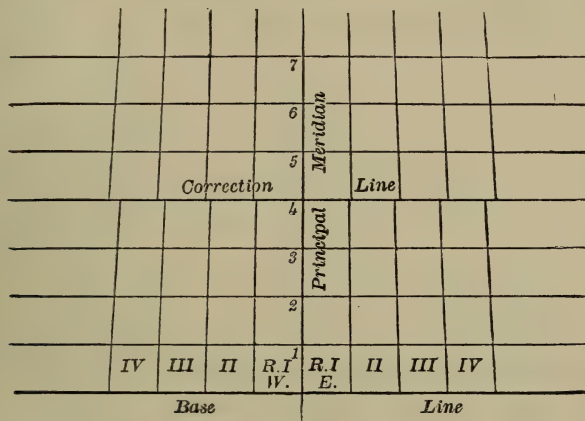


lar shapes. The boundary lines, usually starting from some natural object, were measured by rods or chains, running in certain directions as ascertained by the use of the compass. This method of survey is still in use in the Eastern States. According to a law of 1785, a uniform system of "rectangular" survey was applied to all lands belonging to the United States.* This survey has preceded settlers and has to some extent influenced the meth-

* American History, 188.

od of settlement and the nature of local government throughout the West. The lands surveyed have been divided into townships six miles square. For the boundaries of townships the law requires the use of north-and-south and east-and-west lines. To secure starting points from

FIGURE 1.



which to run these lines, it was necessary to designate certain meridians as Principal Meridians and certain parallels as Base Lines.

The map indicates the location of Principal Meridians and Base Lines in the States north of the Ohio River. Starting, then, from any Principal Meridian, the tier of townships directly east is called Range I; the other ranges are numbered east and west of that Meridian. Counting also from the Base Line, the townships are numbered 1, 2, 3, etc., both north and south. It thus becomes possible to locate precisely any particular township by a simple description: *e. g.*, township 5 north, Range VII east of the first Principal Meridian.

The convergence of meridians causes the townships to

become less than six miles wide from east to west as the survey proceeds northward from any Base Line. This necessitates the running of standard parallel lines, or correction lines, at frequent intervals to be used as new Base Lines.

To still further facilitate the sale and description of lands the law provides for exact methods of subdividing

FIGURE 2.—SIX MILES SQUARE.

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

FIGURE 3.—ONE MILE SQUARE.

NW $\frac{1}{4}$	N $\frac{1}{2}$ NE $\frac{1}{4}$
	SE $\frac{1}{4}$ NE $\frac{1}{4}$
S $\frac{1}{2}$	

the township into sections, one mile square, numbered as in Figure 2.

Each section is subdivided into rectangular tracts known as halves, quarters, half-quarters and quarter-quarters. The designations of these divisions are by abbreviations and fractions. (See Figure 3.) The number of acres in each tract is easily computed.

The rectangular system of survey has been a great aid in the subdivision and location of farm lands; it greatly reduces the number of boundary disputes; it determines very largely the location of country roads. Moreover, the Congressional township has become, in a great many instances, the area within which the political township or

town has been organized. This town, however, need not coincide with the Congressional township; it may be greater or smaller in area.

Upon the admission of Territories into the Union, the ownership of the public lands does not pass to the new States, but remains with the National government. The States cannot interfere with the disposal of this land, nor can they tax it. On the other hand, the National government has pursued a most liberal policy in making grants of land, in large tracts, to the States for various purposes. This is the way in which the school lands of the States were acquired. (See pages 81-82.) Swamp and saline lands, besides other tracts, have been freely given to States to aid in the construction of roads, canals, and other public improvements.

Land
grants
made to
States.

But the largest part of the Nation's domain has been retained and sold or given away by the government to land companies, railroad companies, and settlers. At present, land may be obtained through the General Land Office (Department of the Interior) either by direct purchase or under the homestead laws.

The sale of
public
lands.

Before 1820, the minimum price of land was \$2.00 per acre; the price was then reduced to \$1.25. Some lands may still be purchased at that rate, while others are held at \$2.50 per acre. The public domain of the United States open to settlement comprises (1910) 711,986,409 acres. This does not include lands located in Alaska, and in our new insular possessions. The greatest part of these lands are situated in the Rocky Mountain and Pacific Coast States and Territories; a large share are arid and can be brought under cultivation only by irrigation, if at all.

Under the homestead law, "any citizen of the United States, or any person who has declared his intention of becoming such, who is the head of a family, or has attained his majority, or has served in the army or navy in time of war, and is not already the proprietor of more than 160 acres of land in any State or Territory, is entitled to enter a quarter section (160 acres), or any less amount of unappropriated public land, and may acquire

The home-
stead law.

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title thereto by establishing and maintaining residence thereon, and improving and cultivating the land for a period of five years."*

Railroad
land
grants.

Many of the Western railroads (notably the Northern Pacific, Union and Central Pacific, and Southern Pacific) have been given immense tracts of land, amounting in the total to more than 150,000,000 acres. These grants consist of alternate sections lying within wide strips that cross the western part of the country, along the lines of the several railroads. A considerable part of their land has been sold by the railroad companies to actual settlers.

Arid lands.

A large part of the public domain is arid. In 1902, Congress enacted a law providing that the proceeds from the sales of public lands in certain States and Territories should be expended by the National Government in the construction of irrigation works. The establishment of this policy marks an era in the development of our Western States. Under this law great irrigation dams, reservoirs, and canals have been constructed and large areas of public land are being made cultivable and are being sold to settlers. Some of the States are following the same policy, while others are draining swamp lands.

Various
reserva-
tions.

Many large tracts of land have been retained by the general government as reservations; these are not open to settlement. The forest reserves are intended as a protection for the sources of great rivers. Several National parks (including the Yellowstone and the Yosemite) preserve, for the common good of all, regions of great scenic beauty and scientific interest. Reservoir sites have been reserved in several localities, with a view to the establishment of future irrigation systems. Great tracts of land, located in many States, are preserved as Indian reservations. Military reservations comprise the tracts lying adjacent to Western military posts.

Checking
the waste
of natural
resources.

The policy of our Government in granting and selling its public lands has greatly aided Western settlement, but it has been accompanied by enormous waste and much fraud. Individuals and corporations have acquired large tracts and have held them for speculative purposes. Moreover, little attention was paid until recent years to the other resources of the land besides the soil—timber,

* American History, 389, 441.

minerals, and water-power sites. Great tracts of forests have been destroyed by fire, timber has been wastefully cut, and other large tracts have come into private hands, while the supply of timber in the country is rapidly diminishing. Hence Congress has begun the policy of setting aside forest reservations. These not only conserve the timber, but also help to regulate the flow of rivers. Thus the the washing of soil from hill-sides is checked.

Mineral deposits on public lands are no longer to be sold at low prices with the land. Such land may be withdrawn from entry, and the deposits may later be leased to individuals for working upon the payment of a royalty to the Government. Water-power sites are also being withdrawn from sale, and the Government should in the future prevent their falling permanently into private hands; for the gradual exhaustion of our coal supply will render water-powers of increasing value.

The fundamental principles involved in the policy of conservation * are two: (1) The people should derive just compensation for the sale of the public natural resources, and they should retain ownership of such as may become monopolies; (2) it is the duty of the present generation to care for the welfare of future generations by conserving, rather than allowing the waste of these natural resources.

The policy
of conser-
vation.

The conservation movement was given impetus by President Roosevelt when he called the Conference of Governors, which met first in 1908 and again in 1910. The continuance of these meetings may result in their having great influence over State and National affairs; and so they may become in reality a part of our government, though entirely outside the authority of law or Constitution.

The
Governors'
Conference.

* For facts concerning the activity of States in this direction, see p. 88. See, also, American History, 523.

SUPPLEMENTARY QUESTIONS AND REFERENCES

1. What were the circumstances under which the Northwestern States ceded their lands? Hart, Formation of the Union, 107-109; Fiske, Critical Period, 187-199; Hinsdale, Old Northwest, chapters 11-14.

2. What were the admirable features of the Ordinance of 1787? Walker, 39-40; Fiske, Critical Period, 203-207; Hinsdale, Old Northwest, chapters 15-16. The Ordinance itself is found in Old South Leaflets, No. 13.

3. By which method is the land of your State surveyed? Obtain the surveyor's description of a piece of land in your locality. What States do not have the United States survey? Why not? Are there reservations in your State? The map published by the General Land Office shows, in detail, Principal Meridians, Base Lines, land offices, and reservations.

4. Wanted: A government for Alaska. Outlook, 94 : 431-440.

5. The first Filipino assembly and its work. N. Am. Rev., 188 : 521-525; Outlook, 88 : 175-179.

6. The present government and the future of the Philippines. World's Work, 16 : 10655-10656; Outlook, 90 : 450-456; 91 : 75-82.

7. Preparing the Moros for government. Atl. Mo., 97 : 385-394.

8. Fortifying Panama Canal. Rev. of R's, 39 : 732-733.

9. What is the matter with our land laws? Atl. Mo., 102 : 1-9.

10. National irrigation projects. Indept., 62 : 1079-1085; 64 : 1172-1178; Rev. of R's, 37 : 689-698.

11. Uncle Sam's wood lot. Indept., 64 : 1374-1377; Forest Reserves, *ibid.*, 60 : 667-671; Timber Frauds, World's Work, 15 : 9588-9593; National Forestry, *ibid.*, 15 : 9739-9757.

12. Conservation. Atl. Mo., 101 : 694-704; Indept., 64 : 946-952; Outlook, 87 : 291-294; 93 : 770-772; Rev. of R's, 37 : 585-592; 39 : 317-321.

13. Government control of water power. Outlook, 88 : 582-

584; Rev. of R's, 41 : 47-48; Public Coal lands, Rev. of R's, 35 : 303-304.

14. The Governors' Conference. Indept., 64 : 1374-1377.

15. Relations with Cuba. American History, 503-504.

16. What, if any, organized Territories exist on the continent?

What were the last Territories to be made States?

CHAPTER XXIX

AMENDMENTS TO THE CONSTITUTION

As already noted, it was practically impossible to amend the Articles of Confederation. The conviction was general, therefore, in the Constitutional Convention that some plan should be adopted by which the Constitution might be made to conform to the requirements of future conditions, as well as guard against changes too easily secured. Article V provides for amendments as follows:

Article V.

The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided . . . that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

Methods of
proposing
amend-
ments.

Amendments to the Constitution may thus be proposed in two ways: by a vote of two-thirds of both houses or by a National convention called by Congress for that purpose on the application of two-thirds of the State legislatures. The convention method has never been used in proposing amendments to the Constitution.

Ratifica-
tion of
amend-
ments.

Amendments may also be ratified by either of two methods: by the legislatures in three-fourths of the several States, or by conventions in three-fourths thereof. When

Congress has proposed an amendment, it has designated that the ratification should be by the State legislatures. The method used in proposing and in adopting amendments seems the best, for the bodies called upon to act may be easily summoned.

The most permanent part of the Constitution was secured through the provision that "no State, without its consent, shall be deprived of its equal suffrage in the Senate."

Permanent
feature of
the Consti-
tution.

One of the chief arguments against the Constitution was that it did not contain a Bill of Rights, and consequently it was asserted that the rights of the individual citizen could not be maintained. As already noted (p. 116), some of the States were induced to ratify the Constitution, even with this omission, providing they were given the privilege of recommending amendments. One hundred and eighty-nine propositions in the nature of amendments, many of them being repetitions, were presented by the various States to the first Congress. Seventeen amendments, largely selected from these, were proposed by the House of Representatives. Twelve were agreed to by the Senate and ten were ratified by three-fourths of the State legislatures. The first ten amendments are frequently referred to, therefore, as "The Bill of Rights."

Bill of
Rights.

More than 1,700 amendments to the Constitution have been proposed in an official way. Nineteen of these have been presented to the State legislatures for ratification and fifteen only have received the requisite three-fourths vote. These amendments have now the same force as the original Constitution.

Number of
amend-
ments.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Amend-
ment I.
Freedom of
religion, of
speech,
and of
assembly.

The religious intolerance characteristic of the colonies and the presence of so many different sects doubtless led to this decree, by which the National government should be forever free from the disturbances which would follow should Congress have been given the right to set up a National religion. Our government, unlike that of many European nations, grants the greatest liberties, provided it can be shown that what was said or published was true and the facts were made known with good motives and for justifiable ends. After many contests in English history, the "right of petition" was finally assured in the Declaration of Rights of 1688. The principle was reasserted in many of the State constitutions, and, although inherent in a republican form of government, it was thought desirable to establish the right by making it a part of the Constitution.

Amendment II.
Right of
keeping
militia.

A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

The necessity for having a militia has been referred to on page 202. Fear of a monarch was genuine, and it was believed that the militia would form a ready defence against any usurpation of power on the part of the President.

Amendment III.
Quartering
of soldiers.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

The English authorities maintained the right of "billeting soldiers" upon the colonists in time of peace, and this grievance was one of the causes of the American Revolution. It was maintained that "a man's house is his castle," and that he was justified in resisting all intrusions of this nature.

Amendment IV.
General
warrants.

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

This Amendment, like the preceding, grew out of the desire to check any tendency on the part of the government to trample on the rights of personal liberty and private property. It was believed that the English authorities had disregarded these rights when they issued and strove to enforce the carrying out of the obnoxious Writs of Assistance.*

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Amendment IX.
Rights retained by the people.

Many clauses of the Constitution have in them an enumeration of certain personal rights retained by the people. Among these rights are the privileges of the writ of *habeas corpus* and of the right of trial by jury. Since all personal rights could not be thus enumerated, Amendment IX was evidently intended to apply to those not so designated.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Amendment X.
Powers reserved to the States.

A motion was made when this Amendment was being discussed in Congress that the words "expressly delegated" be used. It was made to appear in the discussion that the Amendment, as given, was intended as an interpretation of the Constitution, and that, since it was impracticable to enumerate *all* of the powers of the general government, some must of necessity be implied. (See pp. 204-205.)†

The Emancipation Proclamation granted freedom to all the slaves in the States then in rebellion. Delaware, Kentucky, Tennessee, Missouri, Maryland, and parts of Virginia and Louisiana do not appear in this list. Slaves

* Amendments V, VI, VII, and VIII have been discussed under the Judiciary, on pp. 266-267.

† Amendment XI has been taken up under the Judiciary, pp. 264-265; Amendment XII has been considered in connection with the election of President and Vice-President, pp. 222-223.

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were held in these States, and slavery still had a legal right to exist in them. Congress desired to settle the question, and February 1, 1865, proposed the XIIIth Amendment to the Constitution.

Amend-
ment XIII,
section 1.

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2.

Congress shall have power to enforce this Article by appropriate legislation.

The wording of the Amendment is almost the same as that which pertains to slavery in the Ordinance for the Northwest Territory of 1787 and the Wilmot Proviso. After it was ratified by sixteen free States and eleven of the former slave-holding States, the requisite three-fourths, Mr. Seward, then Secretary of State, declared it to be a part of the Constitution of the United States, December 18, 1865.

Amendment XIV was proposed by Congress, June 16, 1866, as a part of the general plan for Reconstruction. The Southern States were not to be regarded as a part of the Union until they should ratify it.

Amend-
ment XIV,
section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The first section has already been partially discussed on page 191 under the question, Who are citizens?

The "privileges or immunities" of the section doubtless refer to the rights of the freedmen which had been defined by the Civil Rights Act of April 9, 1866. By

this act, the "freedmen were to have the same rights in every State and Territory of the United States to make and enforce contracts; to sue, be parties, and give evidence; to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens and to be subject to the like punishments, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom to the contrary notwithstanding." The right to vote is not enumerated, for it is a political right.

It was feared attempts would be made in some of the States to keep the negro in a condition of dependence through adverse legislation. To prevent this, the provision was made that no State should deprive "any person of life, liberty, or property without due process of law." The phrase "due process of law," has been regarded, in its legal effects, as equivalent to "the law of the land" which was defined by Webster in the Dartmouth College case as follows: "By the law of the land is most clearly intended the general law; a law which hears before it condemns; which proceeds upon inquiry, and renders judgment only after trial. The meaning is, that every citizen shall hold his life, liberty, property, and immunities under the protection of the general rules which govern society." *

Congress believed that the leaders of the South in the Civil War should be deprived of some of their political privileges, and so framed section 3:

No person shall be a Senator or Representative in Congress, or Elector of President and Vice-President, or hold any office, civil or military, under the United States, or

* Section 2 has been taken up in connection with the apportionment of Representatives, page 125. Pupils should read the entire Amendments as found in the Constitution. Appendix A.

Privileges
or immu-
nities of
citizens.
Story, Com-
mentaries,
§ 1935.

Due process
of law.
Story,
Commen-
taries, §§
1940-1944.
Dartmouth
College v.
Wood-
ward, 4
Wheaton
519.

Amend-
ment XIV.
section 3.

under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each house, remove such disability.

30 United States Statutes at Large, 432.

Congress has at different times removed the disabilities from certain of these classes. Finally, an act of June 6, 1898, removed the last disability imposed by this section.

It was feared there might be an attempt to repudiate the debt which had been incurred in the suppression of the Rebellion and also to pay the war debt of the seceding States. This led to the embodiment of section 4 as a part of the Amendment:

Amendment XIV, section 4.

The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

Section 5.

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

In order to secure full political rights for the negroes the XVth Amendment was passed as indicated on page 125.

Amendment XV, section 1.

The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude.

Section 2.

The Congress shall have power to enforce this article by appropriate legislation.

SUPPLEMENTARY QUESTIONS AND REFERENCES

1. What facts can be given showing the difficulty of amending the Articles of Confederation? Fiske, *Critical Period*, 218-220.
2. Is it now considered difficult to amend the Constitution? Bryce, *American Commonwealth*, I, 368-371.
3. Was the adoption of the XVth Amendment a wise policy?

CHAPTER XXX

THE RELATIONS OF STATES AND NATION

WE have now studied in succession the local, State, and National governments of our country. Since the local units are subordinate to the States of which they are divisions, there remain to be considered the relations that exist between the State and National systems.

A Federal
Republic.

We should first observe that the States are not mere administrative divisions of the Nation. They do not stand in the same relation to the Nation that counties bear to a State. They do not derive their powers from the National government, nor, on the other hand, does the latter derive its power from the States. The source of power for both is the same—"the people themselves, as an organized body politic."* The United States is, then, a *Federal Republic*. This is very different, on the one hand, from a confederation, such as existed in this country between 1781 and 1789, and, on the other hand, from a centralized republic, such as exists to-day in France. In the former case, the National government rested upon the States and could exercise its most important powers only through them. In France, the "departments" (which may be compared to our States) are merely local administrative divisions of the nation, and possess no original powers of government. Our Federal Republic is more complex than either of these systems; but in efficiency it far excels the Confederacy, and in its adaptation to the circumstances of the people it is infinitely better than a centralized government would be.

* Cooley, *Constitutional Limitations*, 205.

The peculiarity of our government lies in the division of powers between State and National authorities. Historically, and from a legal point of view, we should first think of all governmental powers as originating in the people. Of these powers,

The division of powers between State governments and the National government.

(1) Some are exercised by State authorities.

(2) Others are delegated to the National government.

The powers belonging to the first group are nowhere enumerated, because it is neither necessary nor possible to anticipate all of them. They are the *reserved powers* mentioned in the Tenth Amendment to the United States Constitution. The powers of the second group are enumerated in the Constitution; they are vested in the legislative, executive, and judicial branches of the National government. We see, then, that local self-government is preserved in the States for State purposes; and that the National government was created to fulfill National purposes, by a direct grant of power from the people.

In determining this division of powers, it becomes necessary to make two other groups:

(3) Some specific powers are denied to the United States.*

(4) Others are denied to the States.†

Some of these prohibitions are necessary in order that the parts of our double system of government may work harmoniously. Evidently, too, the people intend that some powers shall not be exercised by either State or National authorities, since they are denied to both. In this way, certain ancient liberties are preserved.

(5) Finally, there is a group called *concurrent powers*, because they may be exercised by both State and National governments.

We have spoken as though there were two govern-

* See Article I, section 9, and Amendments I-VIII and XI.

† See Article I, section 10, and Amendments XIII-XV.

But ~~one~~
govern-
ment.

ments, but in reality there is but one. Its parts (State and National) are distinct but not separate.* They fit into and harmonize with each other. Each is necessary to the existence of the other. In the analysis of our government from a legal point of view, we examine them separately; but in the bestowal of our patriotic allegiance as citizens no such separation is possible.

Such is the theory of our government. Its practical workings are not so simple, for very often the line of division between State and Federal powers is doubtful. In tracing this line, the courts have constantly had in view that clause of the Constitution which says:

Article VI,
clause 2.

This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

National
sover-
eignty.

The doctrine of National sovereignty (*i. e.*, the supreme authority of the National government over every State and every individual) became fully established, subject to dispute from no authoritative source whatever, only after the Civil War and the events that followed. But this doctrine is to be viewed in the light of a larger fact, *viz.*, that the National government possesses only delegated powers, and it is only within the sphere of these powers that the National authority is supreme. "When a particular power is found to belong to the States, they are entitled to the same complete independence in its exercise as is the National government in wielding its own authority. Each within its sphere has sovereign powers." †

We have seen that it is the duty of the courts to de-

* Wilson, *The State*, 480-483.

† Cooley, *Principles of Constitutional Law*, 34.

termine, when cases come before them, the limits of State and National jurisdiction. In the last resort, the Supreme Court of the United States decides whether any act of either government is Constitutional. The National government is, therefore, the final judge of the extent of its own powers, as well as of State powers when State and National authority seem to conflict. During most of our history the doctrine was held by eminent persons that, in the event of such a conflict, a State might legally decide for itself which authority should prevail. The doctrine of "State sovereignty" was enunciated in the Virginia Resolutions of 1798 by Madison; in the Kentucky Resolutions of the same year by Jefferson, and in the Resolutions of the Hartford Convention (1814). The doctrine found its logical conclusion in the nullification of a Federal law by South Carolina in 1832. Carried to its extreme limits, State sovereignty became the grounds of justification for the secession of the Southern States at the opening of the Civil War. The doctrine received its death-blow in the events of that period. The success of the National idea seemed for a time to endanger the preservation of the true theory of our government, by threatening the complete dominance of National over State authority. But the Supreme Court of the United States is guardian of State and National powers alike, and its decisions have held firmly to the lines of division that have been indicated in the preceding discussion.

State
sover-
eignty.

As a further statement of this division, it may be said that the States are presumed to have jurisdiction over all subjects of legislation, except as their powers are limited (1) by the National Constitution, (2) by the State constitutions. The National government, on the other hand, is presumed to have only such powers as are delegated to it (either specifically or by implication) in the Constitution of the United States.

300 RELATIONS OF STATES AND NATION

At its foundation, that double system which we call "the government of the United States" rests upon the people. They have not finally determined its character, but have reserved the right to modify its form by the process of amendment, and to change its policy by the periodical election of officers.

SUPPLEMENTARY QUESTIONS AND REFERENCES

1. The government of France is described in Wilson, *The State*, 214-223.

2. Switzerland is also a republic; what are the main features of its government? Wilson, 305-333.

3. What are some of the most important among the reserved powers of the States? How are similar powers exercised in England? Wilson, 487-488.

4. Make lists of powers (1) delegated to the National government; (2) denied to it; (3) prohibited to the States; and (4) to both. (5) What powers would you classify as concurrent?

5. Is it accurate to say that the National government has "more powers" than the States? That it is "stronger" than the States?

6. What is the English Constitution? Bryce, I, 241-242. Why may an act of Parliament be unconstitutional and yet valid? Bryce, I, 250-251.

7. Can you mention State and National laws that have been declared unconstitutional by the Supreme Court?

CHAPTER XXXI

SOME FEATURES OF INTERNATIONAL LAW AND ARBITRATION

WE have considered some of the ways in which our government is brought into direct relations with foreign powers, such as the postal system, naturalization, and privateering. It is especially to be noted that during the nineteenth century there was a marked advance toward the settlement of controversies between nations according to the principles of international law and through courts of arbitration. It will be of interest, therefore, to consider a few of the leading principles which have tended to prevent wars and lessen the suffering and destruction incident to warfare, and to note the relation of the United States to these forward movements.

According to the definition given on page 199, international law refers to the usages which have been established between civilized nations, but more narrowly interpreted it pertains to that body of rules which are accepted by the six great European powers and the United States. Strictly speaking, Hugo Grotius, a political exile from Holland, residing in Paris, became the founder of international law through the publication, in 1625, of his "*De Jure Belli ac Pactis*," a book which has been declared to have altered the history of the world. "Additions have been made to this great work slowly and imperceptibly as the public opinion of the civilized world decides new cases or grows to greater heights of humanity and justice." *

Nature and
origin of
international law.

* Lawrence, *The Principles of International Law*, 54.

Paris Con-
gress, 1856.

Some of the most difficult international problems have arisen over the attempts to define the rights of neutral nations, especially on the high seas, and the treatment of merchant ships and other private property during the time of war. National usage varied until the year 1856, when the great nations (the United States and Spain excepted), in the Congress at Paris, gave the chief impulse to united action by agreeing to the four significant principles: (1) Privateering is and remains abolished; (2) The neutral flag covers an enemy's goods, with the exception of contraband of war; *i.e.*, One of the belligerent nations cannot seize from a vessel that flies the flag of a neutral country, goods that belong to a citizen of the other belligerent unless they be contraband of war. (3) Neutral goods with the exception of contraband of war are not liable to capture under the enemy's flag; (4) Blockades in order to be binding must be effective.

The United
States and
the Rule of
1856.

By the year 1861 forty-six sovereign States had agreed to accept these principles. The United States government asserted that *all private property at sea* should be exempt from capture and confiscation, except in the cases of the violation of a blockade and contraband of war, and refused, in consequence, to sanction the Paris Declaration. In treaties made with individual nations, however, the United States accepted these principles and, in 1898, on the occasion of the outbreak of the Spanish-American War, our government issued decrees upon the subjects mentioned below.

Contra-
band of
war.

(1) No privateers were to be allowed. (See page 200.) (2) The blockade of the forts on the coasts of Cuba should be made effective. (3) Contraband of war was to be carefully defined. The articles declared to be absolutely contraband were: "Ordnance, machine-guns and their appliances and the parts thereof; armor plate and whatever pertains to the offensive and defensive armament of naval vessels; arms and instruments of

iron, steel, brass, or copper, or any other material, such arms and instruments being especially adapted for use in war by land or sea; torpedoes and their appurtenances; cases for mines, of whatever material; engineering and transport materials, such as gun-carriages, caissons, cartridge-boxes, campaigning forges, canteens, pontoons; ordnance stores; portable range-finders; signal flags destined for naval use; ammunition and explosives of all kinds; machinery for the manufacture of rams and munitions of war; saltpetre, military accoutrements and equipments of all sorts; horses." The "conditionally contraband" articles mentioned were the following: "Coal when destined for a naval station, a port of call, or a ship or ships of the enemy; materials for the construction of railroads and telegraphs, and money, when such material or money are destined for an enemy's forces; provisions when destined for an enemy's ship or ships, or for a place that is besieged."

Spain declared that the last three articles of the Declaration of Paris were to be enforced, but maintained the right, as already indicated, to grant letters of marque to privateers.

In the International Convention, at Geneva, in 1864, another marked advance was made. By this agreement, which has been accepted by nearly all the civilized powers of the world, hospitals and all articles intended for the use of the sick and wounded, together with all surgeons, nurses, and other persons engaged in caring for them, are not subject to capture if they are protected by the badge having a red cross upon a white ground. This emblem is placed on the flag or is worn on the arm as the case may be.

The
Geneva
Conven-
tion, 1864,
Red Cross.

From the time of Grotius, appeals were made by individuals and congresses for the lessening of the grosser severities of warfare, but these ideas were not put into practical form until the year 1863. President Lincoln, in that year, decreed that the armies of the United States should be governed by the code of rules which had been prepared on the request of Mr. Lincoln by Francis Lieber. A similar manual was afterward adopted by the various European powers and the general principles were adopted as an international code by the Brussels Conference of 1874, in which the leading States of Europe were represented.

The
Brussels
Conference,
1874.

INTERNATIONAL ARBITRATION

International Arbitration signifies the agreement on the part of two nations in dispute to submit their differences to an independent tribunal and abide by its decision. Great progress was made during the nineteenth century toward this much-desired goal. Our own government has hastened this advance, for it has been a party to about fifty out of one hundred and twenty arbitrations. Questions settled in this manner, such as boundary, damages inflicted by war or civil disturbances, and injuries to commerce, would formerly have led to war. Twenty of these cases have been between the United States and Great Britain, and a settlement was effected when, at times, it seemed as if war could not be averted. Among others may be mentioned the Alabama Question, which was decided by the Geneva Conference in 1871,* and the Behring Sea Seal Fisheries Question, which was finally settled by a tribunal at Paris in 1893.†

The Hague
Conference,
1899.

The work of The Hague Peace Conference, which met May 18, 1899, constituted a fitting close to the efforts which were put forth during the century to bring about conciliation through arbitration. The Conference assembled in response to an invitation issued by the Czar of Russia "on behalf of disarmament and the permanent peace of the world." One hundred and ten delegates were present, representing twenty-six different powers, of which the United States was one. The delegates were divided into three commissions, each having separate subjects for consideration.

Disarma-
ment.

(1) The first commission adopted unanimously the resolution that "the limitation of the military charges which

* See American History, pp. 438, 439.

† The Venezuela question was likewise important. See American History, pp. 486-488.

so oppress the world is greatly to be desired," but agreed that this could not now be accomplished through an international compact.

(2) In the second commission a revision of the Declaration of Brussels concerning the rules of war was made. It was agreed by the entire Conference that a new Convention for this purpose should be called, and that the protection offered by the red cross as agreed upon in the Geneva Convention should also be extended to naval warfare.

Rules of
Wars.

(3) The proposition expressing the desire that international conflicts might in the future be settled through arbitration was considered by the third commission. Said the late ex-President Harrison: "The greatest achievement of The Hague Conference was the establishment of an absolutely impartial judicial tribunal." Some of the leading features of this permanent Court of Arbitration were provided for as follows: (1) Each nation which agreed to the proposition was to appoint, within three months, four persons of recognized competency in international law, who were to serve for six years as members of the International Court. (2) An International Bureau was established at The Hague for the purpose of carrying on all intercourse between the signatory Powers relative to the meetings of the Court, and to serve also as the recording office for the Court. (3) Nations in dispute may select from the list of names appointed as above, and submitted to them by the Bureau, those persons whom they desire to act as arbitrators. (4) The meetings of the Court are to be held at The Hague, unless some other place is stipulated by the nations in the controversy. This Court was convened for the first time May, 18, 1901, and the first case submitted was one between the United States and Mexico. It is readily seen that the advantages of such a court are that unprejudiced arbitrators

Interna-
tional
Court of
Arbitration

are selected; rules of procedure are defined; and that decisions rendered are more liable to be accepted in future cases, and thus a code will be formed. So many cases have been submitted to this tribunal and satisfactorily disposed of that it has been said that a government which will not now try arbitration before resorting to arms, is no longer considered respectable. In 1910, provision was made for a permanent home for the court through the gift of \$1,500,000 by Andrew Carnegie.

The
second
Hague
Conference,
1907.

In 1904, President Roosevelt proposed a second Hague conference to the nations which had taken part in the first one. Russia, then at war with Japan, objected, but when peace was restored Emperor Nicholas II issued an invitation to fifty-three nations to send representatives to such a conference. Delegates from forty-five of these nations responded by sending delegates to The Hague in the summer of 1907. Among the positive results of the conference were; (1) The declaration was adopted prohibiting the throwing of projectiles and explosives from balloons; (2) Provision was made for an international prize court to which appeal might be made from the prize courts of the belligerent powers; and (3) Agreement upon certain principles relating to the laws and customs of war. While no definite position was taken relating to military and naval expenditures, this problem was referred to the respective governments for "serious study." Belief was reasserted in the obligatory arbitration of all questions relating to treaties and international problems of a legal nature, but the principle was not adopted although thirty-two powers favored it. It was recommended that another conference should be called after an interval of eight years.

Other
peace
move-
ments.

Many societies are now organized for the purpose of bringing about disarmament and the settlement of all international disputes through arbitration. Individuals have contributed large sums of money toward the move-

ment for universal peace. With this object in view, Mr. Carnegie, in 1910, created a fund of \$10,000,000.

SUGGESTIVE QUESTIONS AND REFERENCES

1. The Peace Conference at The Hague, 1899, *N. A. Rev.*, 168 : 771-778; 169 : 604-624; 625-639; *N. Eng. Mag.*, 19 : 580-585; *Forum*, 28 : 1-12; *Outlook*, 62 : 22-25; *Reasons for Russia's Desire for Peace*, *Rev. of R's*, 18 : 376-377; 19 : 432-434.

2. The text of the arbitration agreement made at The Hague Conference is found in *Rev. of R's*, 21 : 51-55; Moore, *What the Arbitration Treaty is Not*, *Rev. of R's*, 21 : 50-51.

3. What was the arbitration treaty negotiated with England in 1897? *Forum*, 23 : 13-27; *Outlook*, 55 : 223-224; Fiske, *Atl. Mo.*, 79 : 339-408. For what reasons was the treaty rejected by the Senate? *Outlook*, 55 : 960-961.

4. The Second Hague Conference. *Outlook*, 86 : 155-159; *Rev. of R's*, 36 : 529-530; 727; *N. Am. Rev.*, 186 : 576-580.

APPENDIX A

CONSTITUTION

OF THE

UNITED STATES OF AMERICA.

WE the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this CONSTITUTION for the United States of America

ARTICLE I.

SECTION I. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives.

SECT. II. 1. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

2. No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

3. Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the

United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

4. When vacancies happen in the representation from any State, the Executive authority thereof shall issue writs of election to fill such vacancies.

5. The House of Representatives shall choose their Speaker and other officers; and shall have the sole power of impeachment.

SECT. III. 1. The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof, for six years; and each Senator shall have one vote.

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen by resignation or otherwise, during the recess of the legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

3. No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

4. The Vice-President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

5. The Senate shall choose their other officers, and also a President *pro tempore*, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: and no person shall be convicted without the concurrence of two thirds of the members present.

7. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

SECT. IV. 1. The times, places and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

2. The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SECT. V. 1. Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each house may provide.

2. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two thirds, expel a member.

3. Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one fifth of those present, be entered on the journal.

4. Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SECT. VI. 1. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law and paid out of the treasury of the United States. They shall in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

2. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emolu-

ments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

SECT. VII. 1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

2. Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it with his objections to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and, if approved by two thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

3. Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be re-passed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

SECT. VIII. The Congress shall have power

1. To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

2. To borrow money on the credit of the United States;

3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes;

4. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

6. To provide for the punishment of counterfeiting the securities and current coin of the United States;

7. To establish post offices and post roads;

8. To promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

9. To constitute tribunals inferior to the Supreme Court;

10. To define and punish piracies and felonies committed on the high seas and offences against the law of nations;

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

12. To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

13. To provide and maintain a navy;

14. To make rules for the government and regulation of the land and naval forces;

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions;

16. To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

17. To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State, in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings;—and

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or office thereof.

SECT. IX. 1. The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year 1808; but a tax or duty may be imposed on such importation, not exceeding \$10 for each person.

2. The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

3. No bill of attainder or *ex post facto* law shall be passed.

4. No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

5. No tax or duty shall be laid on articles exported from any State.

6. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another: nor shall vessels bound to, or from, one State, be obliged to enter, clear, or pay duties in another.

7. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

8. No title of nobility shall be granted by the United States: and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

SECT. X. 1. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

2. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws: and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

3. No State shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

SECTION I. 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and together with the Vice-President, chosen for the same term, be elected as follows :

2. Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said house shall in like manner choose the President. But in choosing the President the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice-President.]

3. The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

4. No person except a natural born citizen, or a citizen of the

United States, at the time of the adoption of this Constitution, shall be eligible to the office of President ; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

5. In case of the removal of the President from office or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

6. The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

7. Before he enter on the execution of his office, he shall take the following oath or affirmation :—" I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

SECT. II. 1. The President shall be commander in chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States ; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur ; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law : but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

SECT. III. He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

SECT. IV. The President, Vice-President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

SECTION I. 1. The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

SECT. II. 1. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made or which shall be made, under their authority; — to all cases affecting ambassadors, other public ministers and consuls; — to all cases of admiralty jurisdiction; — to controversies to which the United States shall be a party; — to controversies between two or more States; — between a State and citizens of another State; — between citizens of different States; — between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign states, citizens or subjects.

2. In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction,

both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

SECT. III. 1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

2. The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

ARTICLE IV.

SECTION I. Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

SECT. II. 1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

2. A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

3. No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

SECT. III. 1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned as well as of the Congress.

2. The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

SECT. IV. The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

ARTICLE V.

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several States, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendments which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI.

1. All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

2. This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

3. The Senators and Representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers, both of the United States and of the several

States, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

The ratification of the conventions of nine States, shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

Done in Convention by the unanimous consent of the States present, the seventeenth day of September in the year of our Lord one thousand seven hundred and eighty-seven and of the Independence of the United States of America the twelfth. In witness whereof we have hereunto subscribed our names.

[Signed by]

G^o WASHINGTON,

Presidt and Deputy from Virginia.

NEW HAMPSHIRE.	PENNSYLVANIA.	VIRGINIA.
John Langdon,	B Franklin,	John Blair,
Nicholas Gilman.	Thomas Mifflin,	James Madison, Jr.
MASSACHUSETTS.	Robt. Morris,	NORTH CAROLINA.
Nathaniel Gorham,	Geo. Clymer,	Wm. Blount,
Rufus King.	Tho. Fitz Simons,	Richd. Dobbs Spaight,
CONNECTICUT.	Jared Ingersoll,	Hu Williamson.
Wm. Saml. Johnson,	James Wilson,	SOUTH CAROLINA.
Roger Sherman.	Gouv Morris.	J. Rutledge,
NEW YORK.	DELAWARE.	Charles Cotesworth
Alexander Hamilton.	Geo : Read,	Pinckney,
NEW JERSEY.	Gunning Bedford,	Charles Pinckney,
Wil : Livingston,	Jun,	Pierce Butler.
David Brearley,	John Dickinson,	GEORGIA.
Wm : Paterson,	Richard Bassett,	William Fen,
Jona : Dayton.	Jaco : Broom.	Abr Baldwin.
	MARYLAND.	
	James McHenry,	
	Dan of St. Thos.	
	Jenifer,	
	Danl Carroll.	

Attest : William Jackson, *Secretary.*

ARTICLES IN ADDITION TO AND AMENDMENT OF THE CONSTITUTION
OF THE UNITED STATES OF AMERICA, PROPOSED BY CONGRESS,
AND RATIFIED BY THE LEGISLATURES OF THE SEVERAL STATES,
PURSUANT TO THE FIFTH ARTICLE OF THE ORIGINAL CONSTITUTION.

ARTICLE I.—Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof ; or abridging the freedom of speech, or of the press ; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE II.—A well-regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed.

ARTICLE III.—No soldier shall, in time of peace be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV.—The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V.—No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger ; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb ; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law ; nor shall private property be taken for public use without just compensation.

ARTICLE VI.—In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation ; to be confronted with the witnesses against him ; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

ARTICLE VII.—In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

ARTICLE VIII.—Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX.—The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE X.—The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

ARTICLE XI.—The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign state.

ARTICLE XII.—1. The electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the President of the Senate; — the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted; — the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall de-

volve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. — The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

ARTICLE XIII.—Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV.—Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of Electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or Elector of President and Vice-President, or hold any

office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two thirds of each house, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce by appropriate legislation the provisions of this article.

ARTICLE XV.—Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

APPENDIX B

ARTICLES OF CONFEDERATION

Articles of Confederation and Perpetual Union between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.

ARTICLE I.—The style of this Confederacy shall be, “The United States of America.”

ART. II.—Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated to the United States in Congress assembled.

ART. III.—The said States hereby severally enter into a firm league of friendship with each other, for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretense whatever.

ART. IV.—The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and egress to and from any other State, and shall enjoy therein all the privileges of trade and commerce subject to the same duties, impositions, and restrictions as the inhabitants thereof respectively; provided that such restrictions shall not extend so far as to prevent the removal of property imported into any State to any other State of which the owner is an inhabitant; provided also, that no imposition, duties, or restriction shall be laid by any State upon the property of

the United States or either of them. If any person guilty of, or charged with, treason, felony, or other high misdemeanor in any State shall flee from justice and be found in any of the United States, he shall, upon demand of the governor or executive power of the State from which he fled, be delivered up and removed to the State having jurisdiction of his offense. Full faith and credit shall be given in each of these States to the records, acts, and judicial proceedings of the courts and magistrates of every other State.

ART. V.—For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the Legislature of each State shall direct, to meet in Congress on the first Monday in November, in every year with a power reserved to each State to recall its delegates, or any of them, at any time within the year, and to send others in their stead for the remainder of the year. No State shall be represented in Congress by less than two, nor by more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States for which he, or another for his benefit, receives any salary, fees, or emolument of any kind. Each State shall maintain its own delegates in any meeting of the States and while they act as members of the Committee of the States. In determining questions in the United States in Congress assembled, each State shall have one vote. Freedom of speech and debate in Congress shall not be impeached or questioned in any court or place out of Congress; and the members of Congress shall be protected in their persons from arrests and imprisonment during the time of their going to and from, and attendance on, Congress, except for treason, felony, or breach of the peace.

ART. VI.—No State, without the consent of the United States, in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty with any king, prince, or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office, or title of any kind whatever from any king, prince, or foreign state; nor shall the United States, in Congress assembled, or any of them, grant any title of nobility.

No two or more States shall enter into any treaty, confederation, or alliance whatever between them, without the consent of the United States, in Congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No State shall lay any imposts or duties which may interfere with any stipulations in treaties entered into by the United States, in Congress assembled, with any king, prince, or state, in pursuance of any treaties already proposed by Congress to the courts of France and Spain.

No vessels of war shall be kept up in time of peace by any State, except such number only as shall be deemed necessary by the United States, in Congress assembled, for the defense of such State or its trade, nor shall any body of forces be kept up by any State in time of peace, except such number only as, in the judgment of the United States, in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defense of such State; but every State shall always keep up a well-regulated and disciplined militia, sufficiently armed and accoutred, and shall provide and constantly have ready for use in public stores a due number of field-pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

No State shall engage in any war without the consent of the United States, in Congress assembled, unless such State be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such State, and the danger is so imminent as not to admit of a delay till the United States, in Congress assembled, can be consulted; nor shall any State grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States, in Congress assembled, and then only against the kingdom or state, and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States, in Congress assembled, unless such State be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States, in Congress assembled, shall determine otherwise.

ART. VII.—When land forces are raised by any State for the common defense, all officers of or under the rank of Colonel shall

be appointed by the Legislature of each State respectively by whom such forces shall be raised, or in such manner as such State shall direct, and all vacancies shall be filled up by the State which first made the appointment.

ART. VIII.—All charges of war, and all other expenses that shall be incurred for the common defense, or general welfare, and allowed by the United States, in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States in proportion to the value of all land within each State, granted to, or surveyed for, any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the United States, in Congress assembled, shall, from time to time, direct and appoint. The taxes for paying that proportion shall be laid and levied by the authority and direction of the Legislatures of the several States, within the time agreed upon by the United States, in Congress assembled.

ART. IX.—The United States, in Congress assembled, shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth Article; of sending and receiving ambassadors; entering into treaties and alliances, provided that no treaty of commerce shall be made, whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatever; of establishing rules for deciding, in all cases, what captures on land and water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated; of granting letters of marque and reprisal in times of peace; appointing courts for the trial of piracies and felonies committed on the high seas; and establishing courts for receiving and determining finally appeals in all cases of captures; provided that no member of Congress shall be appointed a judge of any of the said courts.

The United States, in Congress assembled, shall also be the last resort on appeal in all disputes and differences now subsisting, or that hereafter may arise between two or more States concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following: Whenever the legislative or executive authority, or lawful agent of any State

in controversy with another, shall present a petition to Congress, stating the matter in question, and praying for a hearing, notice thereof shall be given by order of Congress to the legislative or executive authority of the other State in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint, by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question; but if they cannot agree, Congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven nor more than nine names, as Congress shall direct, shall, in the presence of Congress, be drawn out by lot; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges who shall hear the cause shall agree in the determination; and if either party shall neglect to attend at the day appointed, without showing reasons which Congress shall judge sufficient, or being present, shall refuse to strike, the Congress shall proceed to nominate three persons out of each State, and the secretary of Congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court, to be appointed in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence or judgment, which shall in like manner be final and decisive; the judgment or sentence and other proceedings being in either case transmitted to Congress, and lodged among the acts of Congress for the security of the parties concerned; provided, that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme or superior court of the State where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward." Provided, also, that no State shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil claimed under different grants of two or more States, whose jurisdictions,

as they may respect such lands, and the States which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either party to the Congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different States.

The United States, in Congress assembled, shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective States; fixing the standard of weights and measures throughout the United States; regulating the trade and managing all affairs with the Indians, not members of any of the States; provided that the legislative right of any State, within its own limits, be not infringed or violated; establishing and regulating post-offices from one State to another, throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office; appointing all officers of the land forces in the service of the United States, excepting regimental officers; appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States; making rules for the government and regulation of the said land and naval forces, and directing their operations.

The United States, in Congress assembled, shall have authority to appoint a committee, to sit in the recess of Congress, to be denominated "A Committee of the States," and to consist of one delegate from each State, and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction; to appoint one of their number to preside; provided that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses; to borrow money or emit bills on the credit of the United States, transmitting every half year to the respective States an account of the sums of money so borrowed or emitted; to build and equip a navy; to agree upon the number of land forces, and to make requisitions from each State for its quota, in proportion to the number of white

inhabitants in such State, which requisition shall be binding; and thereupon the Legislature of each State shall appoint the regimental officers, raise the men, and clothe, arm, and equip them in a soldier-like manner, at the expense of the United States; and the officers and men so clothed, armed, and equipped shall march to the place appointed, and within the time agreed on by the United States, in Congress assembled; but if the United States, in Congress assembled, shall, on consideration of circumstances, judge proper that any State should not raise men, or should raise a smaller number than its quota, and that any other State should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed, and equipped in the same manner as the quota of such State, unless the Legislature of such State shall judge that such extra number can not be safely spared out of the same, in which case they shall raise, officer, clothe, arm, and equip as many of such extra number as they judge can be safely spared, and the officers and men so clothed, armed, and equipped shall march to the place appointed, and within the time agreed on by the United States, in Congress assembled.

The United States, in Congress assembled, shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defense and welfare of the United States, or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander-in-chief of the army or navy, unless nine States assent to the same, nor shall a question on any other point, except for adjourning from day to day, be determined, unless by the votes of a majority of the United States, in Congress assembled.

The Congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances, or military operations as in their judgment require secrecy; and the yeas and nays of the delegates of each State, on

any question, shall be entered on the journal when it is desired by any delegate; and the delegates of a State, or any of them, at his or their request, shall be furnished with a transcript of the said journal except such parts as are above excepted, to lay before the Legislatures of the several States.

ART. X.—The Committee of the States, or any nine of them, shall be authorized to execute, in the recess of Congress, such of the powers of Congress as the United States, in Congress assembled, by the consent of nine States, shall, from time to time, think expedient to vest them with; provided that no power be delegated to the said Committee, for the exercise of which, by the Articles of Confederation, the voice of nine States in the Congress of the United States assembled is requisite.

ART. XI.—Canada, acceding to this Confederation, and joining in the measures of the United States shall be admitted into, and entitled to all the advantages of this Union; but no other colony shall be admitted into the same, unless such admission be agreed to by nine States.

ART. XII.—All bills of credit emitted, moneys borrowed, and debts contracted by or under the authority of Congress, before the assembling of the United States, in pursuance of the present Confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States and the public faith are hereby solemnly pledged.

ART. XIII.—Every State shall abide by the determinations of the United States, in Congress assembled, on all questions which by this Confederation are submitted to them. And the Articles of this Confederation shall be inviolably observed by every State, and the Union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the Legislatures of every State.

AND WHEREAS it hath pleased the great Governor of the world to incline the hearts of the Legislatures we respectively represent in Congress to approve of, and to authorize us to ratify, the said Articles of Confederation and perpetual Union, know ye, that we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do, by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said Articles of Confederation and

perpetual Union, and all and singular the matters and things therein contained. And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States, in Congress assembled, on all questions which by the said Confederation are submitted to them; and that the Articles thereof shall be inviolably observed by the States we respectively represent, and that the Union shall be perpetual. In witness whereof, we have hereunto set our hands in Congress. Done at Philadelphia, in the State of Pennsylvania, the ninth day of July, in the year of our Lord 1778, and in the third year of the Independence of America.

APPENDIX C

REFERENCE BOOKS

The books named in the lists that follow have been used in the preparation of this volume. Those marked (*) are especially recommended for high schools.

ORIGINAL SOURCES

- *American History Leaflets. Lovell.
- *Hart, American History Told by Contemporaries. Macmillan.
- Elliot, Debates, 5 volumes.
- *The Federalist. Scott, Foresman & Co.
- *Madison, Journal of the Constitutional Convention. Scott, Foresman & Co.
- *Old South Leaflets. Heath.

PUBLICATIONS OF THE GOVERNMENT PRINTING OFFICE, WASHINGTON

- *Abridgment of the President's Message and Accompanying Documents.
- Bulletins of the Bureau of American Republics.
- *Civil Service Commission, Annual Reports.
- *Commissioner of Labor, Annual and Special Reports.
- *Commissioner of Education, Annual Reports.
- *Congressional Directory.
- *Congressional Record.
- Consular Reports.
- Donaldson, Public Domain.
- *Finance Reports. (Secretary of the Treasury.)
- *Interstate Commerce Commission, Annual Reports.
- *Manual and Digest of the House of Representatives.
- *Public Debt Statement
- *Statistical Abstract.

SPECIAL PUBLICATIONS (not by the Government)

International Prison Conference Reports.

Proceedings of the National Conference of Charities and Corrections.

GENERAL WORKS

*Alton, *Among the Law Makers*. Scribner.

Andrews, *An Honest Dollar*. Hartford Student Pub. Co.

*Andrews, *History of the Last Quarter Century*. Scribner.

Bagehot, *The English Constitution*. Appleton.

*Bancroft, *History of the United States*. Appleton.

*Bliss, *Encyclopedia of Social Reform*. Funk & Wagnalls Co.

Boone, *Education in the United States*. Appleton.

Brooks, *How the Republic is Governed*. Scribner.

*Bryce, *American Commonwealth*. Macmillan.

Bullock, *Introduction to the Study of Economics*. Silver, Burdett & Co.

*Burgess, *The Middle Period*. Scribner.

*Channing, *A Student's History of the United States*. Macmillan.

Cooley, *Constitutional Limitations*. Little, Brown & Co.

*Cooley, *Principles of Constitutional Law*. Little, Brown & Co.

*Curtis, *The United States and Foreign Powers*. Scribner.

*Clow, *Introduction to the Study of Commerce*. Silver, Burdett & Co.

Commons, *Proportional Representation*. Crowell.

*Conkling, *City Government in the United States*. Appleton.

*Dole, *Talks About Law*. Houghton, Mifflin & Co.

Devlin, *Municipal Reform in the United States*. Putnam.

Earle, *Child Life in Colonial Days*. Macmillan.

Earle, *Curious Punishments of By-gone Days*. H. E. Stone & Co.

Ely, *Problems of To-day*. Crowell.

*Ely, *Outlines of Economics*. Macmillan.

Ely, *Trusts and Monopolies*. Macmillan.

Ely, *Taxation in American States and Cities*. Crowell.

Fisher, S. G., *The Evolution of the Constitution of the United States*. Lippincott.

*Fisher, *The Colonial Era*. Scribner.

*Fiske, *Beginnings of New England*. Houghton, Mifflin & Co.

Fiske, *Old Virginia and Her Neighbors*. Houghton, Mifflin & Co.

- *Fiske, American Revolution. Houghton, Mifflin & Co.
- *Fiske, Critical Period of American History. Houghton, Mifflin & Co.
- *Fiske, Civil Government in the United States. Houghton, Mifflin & Co.
- Follett, The Speaker. Longmans.
- Frothingham, Rise of the Republic. Little, Brown & Co.
- Godkin, Problems of Democracy. Scribner.
- Goodnow, Municipal Problems. Macmillan
- Grinnell, The Indians of To-day. Stone.
- *Harrison, This Country of Ours. Scribner.
- Hart, Essays on American Government. Longmans, Green & Co.
- *Hart, Formation of the Union. Longmans, Green & Co.
- Hinsdale, The Old Northwest. Silver, Burdett & Co.
- *Hinsdale, The American Government. Werner School Book Co.
- Hitchcock, American State Constitutions. Putnam.
- *Hosmer, Samuel Adams. American Statesmen Series. Houghton, Mifflin & Co.
- Howe, Taxation and Taxes in the United States Under the Internal Revenue System. Crowell.
- Jenks, The Trust Problem. McClure, Phillips & Co.
- *Johnston, American Politics. Holt.
- Knox, United States Notes. Scribner.
- Laughlin, Elements of Political Economy. Appleton.
- Lawrence, The Principles of International Law. Heath.
- *Lodge, Alexander Hamilton. American Statesmen Series. Houghton, Mifflin & Co.
- *Macy, Our Government. Ginn.
- *Magruder, John Marshall. American Statesmen Series. Houghton, Mifflin & Co.
- McConachie, Congressional Committees. Crowell.
- *McMaster, History of the People of the United States. Appleton.
- *McLaughlin, History of the American Nation. Appleton.
- Municipal Program, A. Macmillan.
- *Newspaper Almanacs.
- *Noyes, Thirty Years of American Finance (1865-1896). Putnam.
- Plehn, Introduction to Public Finance. Macmillan.
- Remsen, Primary Elections. Putnam.
- Riis, How the Other Half Lives. Scribner.
- Robinson, Elementary Law. Little, Brown & Co.

- *Schouler, History of the United States. Dodd, Mead & Co.
 Seligman, Essays on Taxation. Macmillan.
 Shaw, Municipal Government in Continental Europe. The Century Co.
 Shaw, Municipal Government in Great Britain. The Century Co.
 *Sloane, The French War and the Revolution. Scribner.
 Sparling, Municipal History and Present Organization of the City of Chicago. Bulletin 23, University of Wisconsin.
 Stanwood, History of Presidential Elections. Houghton, Mifflin & Co.
 Stearns, Columbian History of Education in Wisconsin.
 Story, Commentaries on the Constitution.
 Stevens, Sources of the Constitution of the United States. Macmillan.
 Taussig, The Silver Situation in the United States. Putnam.
 *Taussig, Tariff History of the United States. Putnam.
 Thwaites, The Colonies. Longmans, Green & Co.
 Tolman, Municipal Reform Movements. Revell.
 Tyler, Patrick Henry. American Statesmen Series. Houghton, Mifflin & Co.
 Walker, Political Economy. Holt.
 *Walker, The Making of the Nation. Scribner.
 Watson, History of American Coinage. Putnam.
 Warner, American Charities. Crowell.
 White, Money and Banking. Ginn.
 *Wilcox, The Study of City Government. Macmillan.
 *Wilson, The State. Heath.
 *Wilson, Congressional Government. Houghton, Mifflin & Co.
 *Wilson, Division and Reunion. Longmans, Green & Co.
 Wines and Koren, The Liquor Problem in its Legislative Aspects. Houghton, Mifflin & Co.
 Wright, Industrial Evolution of the United States. Flood & Vincent.
 *Wright, Practical Sociology. Longmans, Green & Co.

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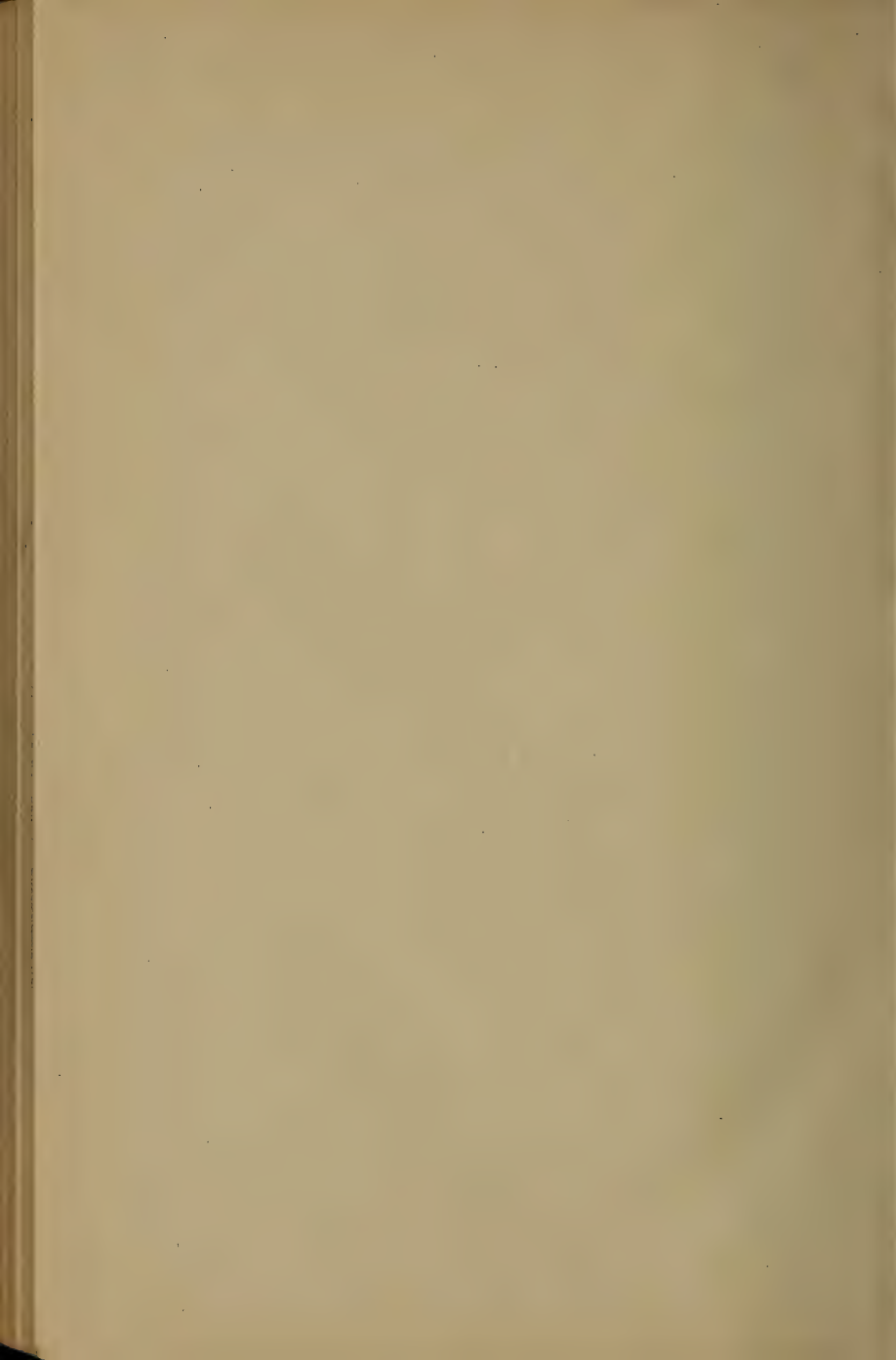
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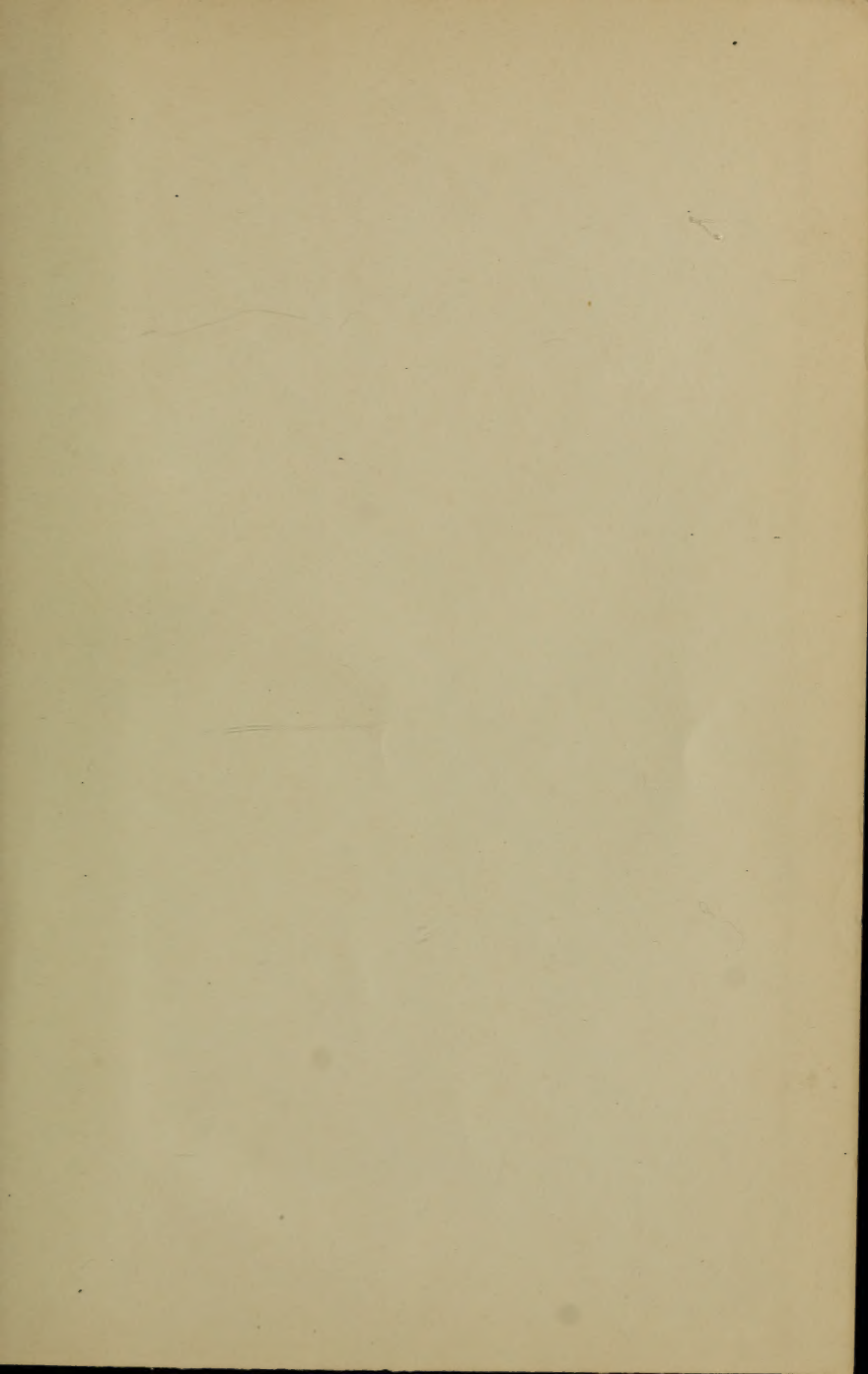
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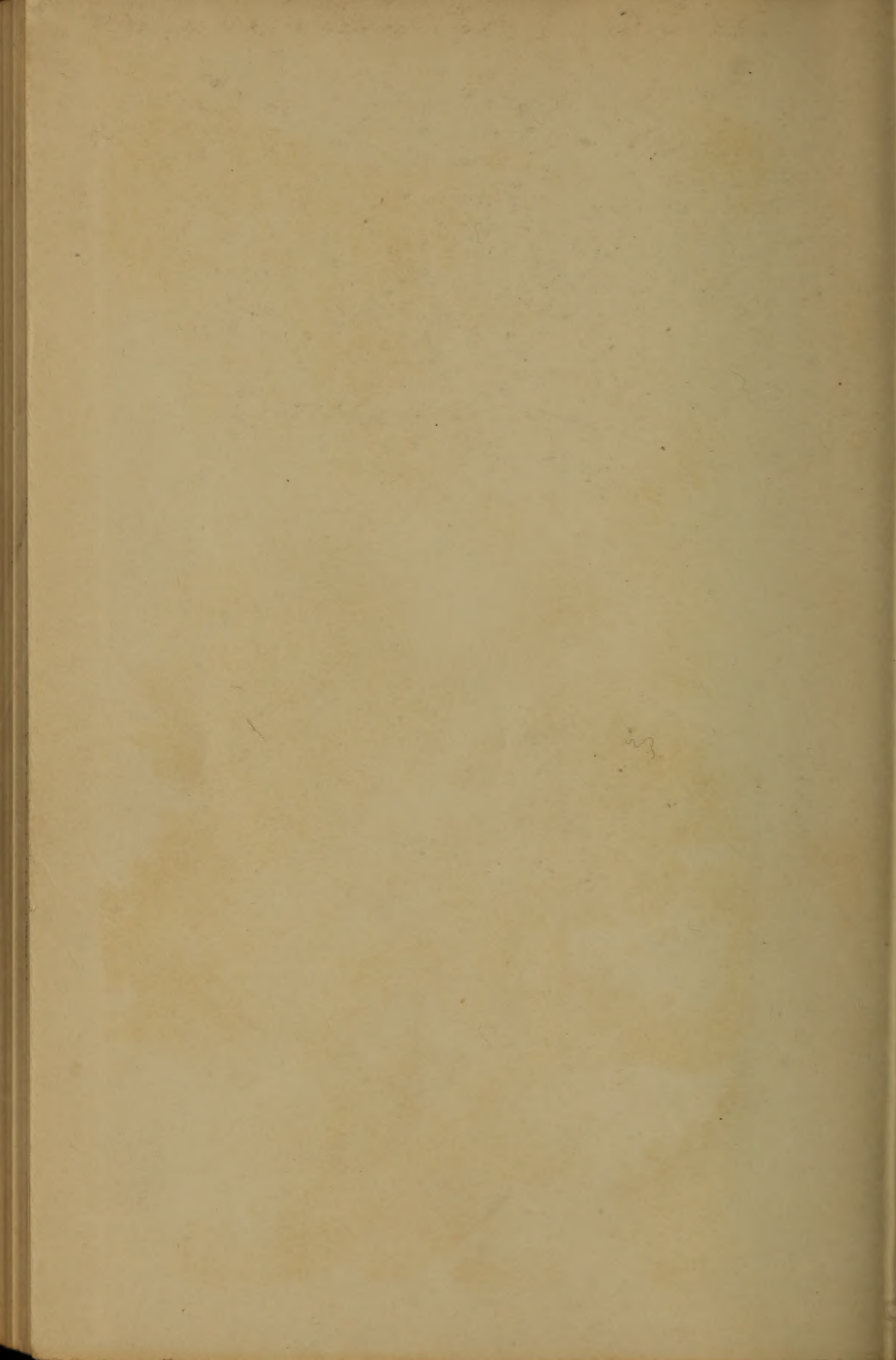
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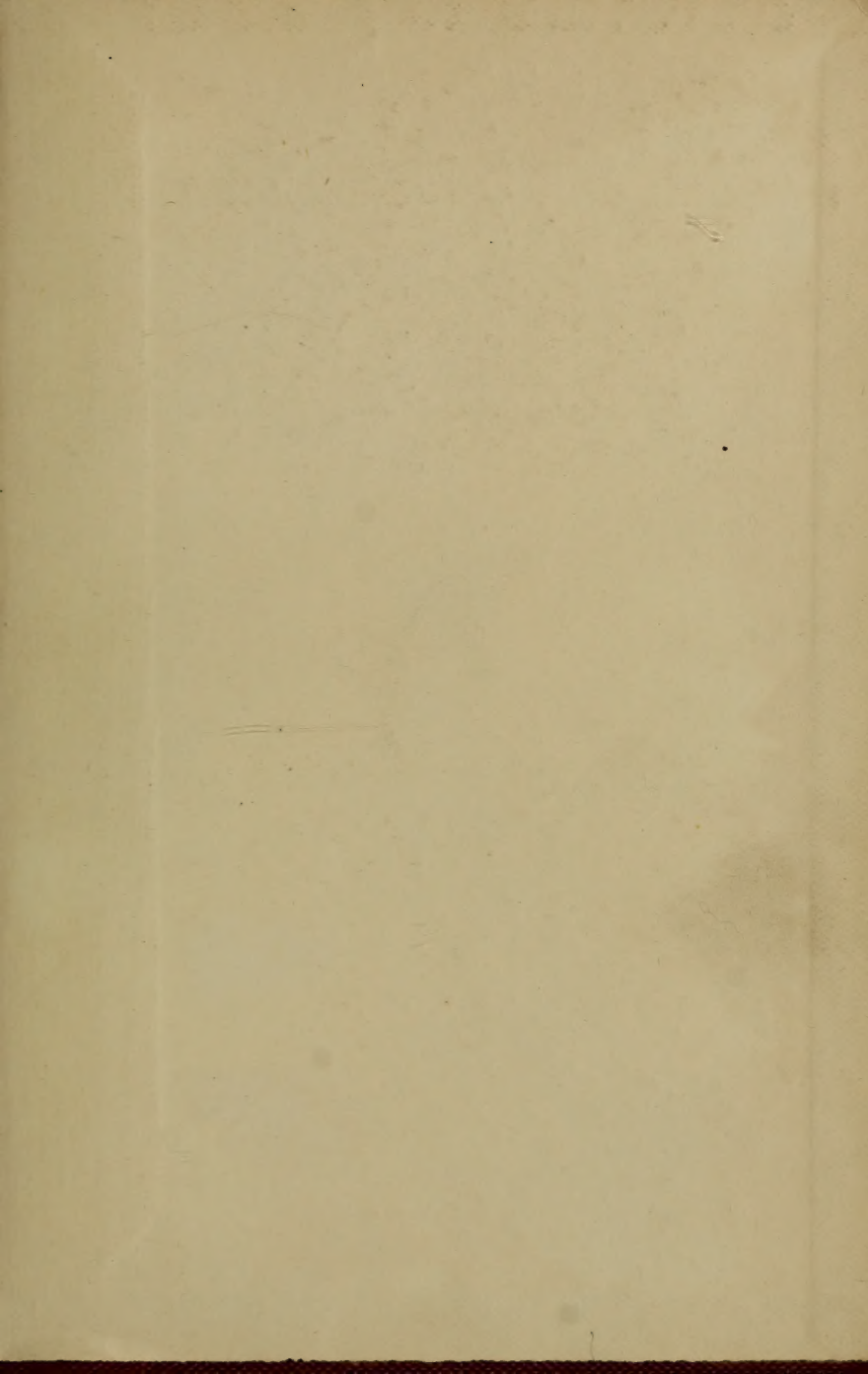
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